R. File No. 31
1939.

Collection No. 1

A Mysore Residency

29/7/47 29/7

Pros. Serial Nos. 1 — 16

Subject.

Previous References.

Later References.

R. Dis. **FILE No. 31-39 193** Co.

Section. File No.

Heading. Serial No.

NOTES.

DEPT. BRANCH.

Pros. 19 : Nos.

Subject.

Income-tax Circulars and Circular Instructions.

Notes and Orders.

S. 1.

MFP—1406 S&P—(M-2338)—18-3-37—200,000.

D.8122.	S.N.1
D.8222.	S.N.2
D.8225.	S.N.3
D.8387.	S.N.4

c.p.52-53 'D'

S.N.1. Please see S.N.29 and 30 of R.Dis.F.31-39. Draft submitted with fair.

S.N.2. Draft submitted with fair.

S.N.3. Draft submitted with fair.

S.N.4. Please see S.N.112 and 115 of R.Dis.F.31-39. Draft submitted with fair.

Records will please open a new collection for this file.

19.8.39

19.8.39

Sh 5-8 (Issue)

D.8462.	S.N.9.
D.8463.	S.N.10.
D.8581.	S.N.11.
D.8750.	S.N.12.

S.N.9. Please see S.N.79 and 81 of R.Dis. F.31(Coll.I)-39. Draft submitted with fair.

S.N.10. May be communicated to the Asst. Commr. of I.T.

S.N.11 and 12. No Appellate Asst. Commr. has been appointed for the Station. The question is pending with the Govt. of India. However,

as

as these circulars are addressed to all Commissioners of Income-tax also, copies may be communicated to the Asst. Commr. of Income-tax.

Draft forwarding copies of S.N.10, 11 and 12 to the Asst. Commr. submitted with fair.

24.8.39

25.8

ASRao 24.8.39

A/S

S.N.13 and 14. Issue.

D.8751.	S .N.15.
D.8752.	S. N.16.
D.8753.	S. N.17.
D.8820.	S. N.18.

S.N.15 and 18. Draft submitted with fair.

S.N.16. Please see S.N.111 and 115 of R.Dis.

F.31(I)-39. Draft submitted with fair.

S.N.17. Please see S.N.100 and 107 of R.Dis.

F.31(I)-39. Draft submitted with fair.

6.9.39

7.9.

S.N. 19-21 Issue

ASRao 6.9.39

A/S.

4

D.8819.	S.N.22. ✓
D.8997.	S.N.23. ✓
D.8999.	S.N.24. ✓
D.9000.	S.N.25.
D.9093.	S.N.26.

c/f. 72 X 84 10

(D)

S.N.22 and 23. Please see S.N.40 and 46 of R.Dis.F.31-39(I). Draft submitted with fair. Necessary amendment has been carried out in the Memo. of Instructions at S.N.40/c.p.72. (D)

S.N.24. Draft submitted with fair.

S.N.25. Please see S.N.101 and 107 of R.Dis. F.31-39(I). Draft submitted with fair.

(D)

S.N.26. Please see S.N.112 and 115 of R.Dis. F.31-39(I). Draft submitted with fair.

(D)

W 12.9.39.

14-9.

RSRao 13.9.39

S.N.27-30 Issue

A.S.

D.9025	S.N.31
D.9026	S.N.32
D.9267	S.N.33
D.9268	S.N.34

11

Draft submitted with fair.

W 14.9.39.

18-9.

RSRao 14.9.39 15

S.N.35. Issue

AS.

5/

D.9024. S.N.36

D.9091. S.N.37 } will be filled in

D.9092. S.N. 38

(Main file submitted
in another connection.)

2/

Draft submitted with fair.

12.9.39.

14-9.

13.9.39

S.N 39. Issue

A.S.

D.8998. S.N.40.

D.9266. S.N.41.

3/

Draft submitted with fair.

19.9.39.

20-9.

19.9.39

S. N. 42. Issue

A.S.

D.9755. S.N.51.

D.9758. S.N.52.

18

19

S.N.51. Draft submitted with fair.

S.N.52. Necessary corrections have been carried out in the office copy of the Notes at S.N.71/c.p.130 of R.Dis.F.31-39(I). Draft submitted with fair.

W 26.9.39.

27-9

ASRw 26.9.39

S.N.53-54 Issue.

AS

8

D.9612. S.N.(55)

D.9756. S.N (56)

Main file submitted in another connectidn.

Draft submitted with fair.

20

W 23.9.39.

A. 25.9.

AsRa. 23.9.39

S. N. 57. Issue

A.S.

D.9839. S.N.58

D.9843. S.N.59

D.10,021. S.N.60

D.10,023. S.N.61

21

S.N.58. May be filed.

c.p.4 and 9

22

S.N.59. Please see S.N.2 and 6. Draft submitted with fair.

S.N.60 and 61. Draft submitted with fair.

23

W 28.9.39.

A. 29.9.

AsRa. 28.1x.39

S. N. 62 & 63. Issue

A.S.

9

D.9614. S.N. (64)

D.9753. S.N. (65)

Main file submitted
in another connection.

Draft submitted with fair.

27.9.39.

28.9.

27.IX.39

S.N.66. Issue

10

D.9609. S.N. (67)

D.9754. S.N. (68)

Main file submitted in another connection.

25 Draft submitted with fair.

S.N. 69. Issue.

W. 26.9.39.

Passed by A.S. AsRa 26.9.39

A.S.

D.10,020. S.N.70.

D.10,022. S.N.71.

26 Draft submitted with fair.

W. 29.9.39.

27 AsRa 29.IX.39 Why don't you refer to previous correspondence in our endt. ~~Have~~ Please do so before dispatch

A/S. 30-9.

28 revised
Two drafts submitted with fairs, please

W. 30.9.39. 2.10.

S.N. 72 & 73. Issue

AsRa 30.IX.39

A/S.

11

D.9627. S.N.74.

29 Draft submitted with fair.

4.10.39.

S-W

A.S. Sc. 1. copy.

AsRa.
4.x.39

S.N.75. Issue.

A/S

D.10,245. S.N.76

D.10,258. S.N.77

30 S.N.76. Please see S.N.31 and 123 of R.Dis.F.31-39(I). Draft submitted with fairs.

31 S.N.77. Please see S.N.23 and 27 of R.Dis.F.31-39(II). Draft submitted with fair. (Copy may be communicated to other local officers when we, as usual, get spare copies from the Political Department.)

6.10.39.

9.10

S.N.78 & 79. Issue

AsRa.
7.x.39

A.S.

D.10,321. S.N.80.

D.10,386. S.N.82.

32

with fair.
S.N.80 and 81. Draft submitted. The instructions in S.N.81 may be noted.

33

S.N.82. Draft submitted with fair.

W 9-10-39

A 10.10

A.S.R.Rao 9.x.39

S. N. 83 & 84 Issue

A.S.

D.10,319. S.N.85.

D.10,387. S.N.86.

D.10,402. S.N.87.

34

S.N.85. In effect the p.u.c. is the same as S.N.77 copy of which has been forwarded to the Inspecting Asst. Commr.- Vide S.N.79. The p.u.c. may be filed. (Please see para. 31 of notes ante.)

35

S.N.86. Draft submitted.

36

62

S.N.87. The enclosures to the p.u.c. are the same as S.N.37 and S.N.45 copies of which have been forwarded the Income-tax Office.- Vide S.N.39 and 49. Copies may now be forwarded to other local Officers. Draft submitted.

W 10-10-39.

A 11.10

S N 88 & 89 Issue

A.S.R.Rao 10-x-39

A.S.

13

D.10,353. S.N.90.

D.10,354. S.N.91.

37

Draft submitted with fair.

14.10.39

16.10.

14.X.39

A.S.

S.N.92. Issue.

D.10,634. S.N.93.

D.10,635. S.N.94.

D.10,656. S.N.95.

38

Two drafts submitted with fairs for favour of signature.

19.10.39.

20/10/39

19.X.39

S. N. 96 & 97. Issue

A.S.

14

D.10,836. S.N.98

D.10,886. S.N.99

39

Two drafts submitted with fairs.

27.10.39.

27.x.39

28/10/39

A.S.

S.N.100 and 101. Issue.

D.10,469. S.N.102.

40

Draft submitted.

Please see the routine note at 'G'.)

S.N. 103. Issue

31.10.39.

1.x1.39

2/11/39

Supdt.

15

D.10,632. S.N. (104)

1 file submitted another connection.

41 Draft submitted with fair.

20.10.39

24.10.

ASRao 23.x.39

A.E.

S.N. 105 Issue

D.11,082.	S.N.106.
D.11,099.	S.N.107.
D.11,100.	S.N.108.
D.11,229.	S.N.109.

42 S.N.106. The enclosure to S.N.106 is the same as S.N.77 ~~xx~~ copy of which has been forwarded to the Inspecting Asst. Commr.- Vide S.N.79. Draft submitted.

43 S.N.107 to 109. Draft submitted.

S.N. 110 & S.N. 111 Issue

8.11.39.

ASRao 8.11.39

9.11.39

Supdt.

Issue

16

D.11,597. S.N.112.

D.11,596. S.N.113.

44

Draft submitted.

11
11.11.39.

AsRao
18.11.39
4.

MCN
20/11/39

Supdt.

S.N.114. Issue.

D.11,702. S.N.115.

D.11,782. S.N.116.

D.11,830. S.N.117.

45

Draft submitted.

Ls
23.11.39.

AsRao
24.11.39

MCN.
24.11.39

S.N.118 Issue.

Supdt.

D.11,894.	S.N.119
D.11,893.	S.N.120
D.11,932.	S.N.121.

46

Draft submitted.

US 29.11.39.

20/11

DSRao 29.11.39

U.S.

S.N. 122 Issue

D.12,092. ✓	S.N.123. ✓
D.12,093. ✓	S.N.124. ✓
D.12,094. ✓	S.N.125. ✓

47

Draft submitted with fair.

US 4.12.39

5/12/39

S.N.126. Issue.

D.12,301.	S.N.127.
D.12,331.	S.N.128.
D.12,332.	S.N.129.

48

Three drafts submitted with fairs.

US 9.12.39

11.12.39

14/12

S.N.130, 131 & 132 Issue

A.S.

15/

D.12,569. S.N.133.

D.12,595. S.N.134.

49

Draft submitted with fair.

16.12.39.

S.N.135. Issue.

D.12,460. S.N.136.

D.12,650. S.N.137.

D.12,951. S.N.138.

D.12,952. S.N.139.

50

Two drafts submitted with fairs.

22.12.39.

22/XII

23/XII

Copies

Shall we add 'for information & necessary action' to Draft ?

23/XII

S.N.140 and 141. Issue.

D.13,195. S.N.142.

Draft submitted with fair.

23.12.39.

29/XII

19/

puc D. N. 13223. D. N. 144.

52

Please see S. N. 137 and 141 to 143.

Draft submitted (with fair).

30/12/39.

30.XII.39

Para 52.

30/12

U/S.

52 (UNS)-Issue

D.12989.	S.N.146.
D.12990.	S.N.147.
D.13096.	S.N.148.

53

Three drafts submitted with fairs.

US 5.1.40.

6/1.

S.N.144 & S.N.150 X 157. Issue

ASR. 5.1.40

U/S. Sytat.

D.12,991.	S.N. 152
D.13097.	S.N. 153
D.13130.	S.N. 154
D.13131.	S.N. 155
D.13132.	S.N. 156
D.13133.	S.N. 157

(Main file submitted in another connection.)

Draft submitted (with fair)

4.1.40.

AsRao 5.1.40

U.S. Supdt.

S.N.158. Issue.

D.179	S.N.159
D.180	S.N.160
D.403	S.N.161.
D.404	S.N.162.

Draft submitted with fair.

15.1.40.

AsRao 16.1.40

U.S.

S.N. 163. Issue

21

D.13095 S.N.(164

D.106. S.N.(165

Main file submitted in another connection.

Two drafts submitted with fairs.

LS 5.1.40.

DSRa 9.1.40

S. N. 166 & 167. Issue

U.S.

Record.

DSRa

C.No.351-I.T./37.

CENTRAL BOARD OF REVENUE.

Simla, the 24th July 1939.

...

A copy of the undermentioned papers is forwarded to all Commissioners of Income-tax for information and necessary action in continuation of my letter C.No.351-I.T./37, dated the 15th March 1939.

S.N.29 e.f.52

By order, etc.,

26-7-39

First Secretary, Central Board of Revenue.

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE.
6 AUG 1939
Diary No. 8122
File No.

RD 31/39

Paper forwarded.

1. An extract of paragraphs 5 and 6 of the India Office letter No.F.1056/39, dated 11th April 1939.
2. Finance Department Notification No. F.7(14)-R.I/39, dated the 18th May 1939.

R.25/7.

Encl (1)

Extracts paragraphs 5 and 6 from the India Office letter No.F 1056/39, dated the 11th April 1939.

.....

5. Assuming that the appropriate Indian rate is duly notified in each case as required by paragraph 3 above, the procedure will be as follows. In cases where no liability to United Kingdom tax arises, the appropriate rate of Indian tax will be deducted month by month. (If eventually a liability to United Kingdom tax arises, owing for example to prolongation of leave in this country, adjustments will of course be necessary as if such liability had arisen all along). In cases where liability to United Kingdom tax arises, the appropriate rate of Indian tax will be communicated to the Inland Revenue who, on the basis thereof, will calculate the rate of United Kingdom relief provisionally admissible in respect of the Indian tax. In so doing they will have regard only to the income under "salaries"; other income will be treated separately and, if United Kingdom relief is due in respect thereof (e.g. remittances), it will continue to be granted by reference to the estimated Indian rate appropriate to the total Indian income according to the best information available. The rate of United Kingdom relief in respect of "salaries" having thus been determined, the question whether reciprocal relief is provisionally due from India will then depend in the usual way on whether the appropriate Indian rate exceeds the rate of United Kingdom relief; and, when notifying...

notifying the rate of United Kingdom relief, the Inland Revenue authorities will, in appropriate cases, issue a certificate for the purpose of such reciprocal relief. The rates of tax actually deducted month by month on behalf of the United Kingdom and India respectively will be the appropriate rates reduced by the United Kingdom relief and reciprocal relief, if any, so calculated.

6. Since tax is to be based on the income under "salaries" only, the relief allowed from United Kingdom tax may not be final, and the certificates supplied for reciprocal relief purposes will have to be given on a provisional basis. The Inland Revenue assume that no difficulty will be made in India in acting on such provisional certificates, and that final certificates will not be required when the Indian rate requires adjustment unless the rate of United Kingdom relief is affected. Moreover, it may sometimes happen, as a result of unforeseen circumstances, that the provisional relief granted by the United Kingdom proves to have been excessive, and, as a condition of the above arrangements, the Inland Revenue have stipulated that they shall be informed of cases in which the final Indian rate proves to be less than <u>both</u> the provisional Indian rate <u>and</u> the half appropriate United Kingdom rate.

XX XX XX

Fone (2)

FINANCE DEPARTMENT.

NOTIFICATION.

Simla, the 18th May 1939.

No. F. 7 (14)-R. I|39.—The following resolutions by the Secretary of State for India are published for general information :—

"I, Lawrence John Lumley, Marquess of Zetland, one of His Majesty's Principal Secretaries of State, in exercise of the powers conferred upon me by Section 247 of the Government of India Act, 1935, hereby make, with the concurrence of my Advisers, the following Amendment in the Fundamental Rules, namely :—

To Rule 91 of the said Rules, the following sub-rule shall be added, namely :—

(6) Any leave salary drawn outside India shall be subject to deduction of Indian income-tax and super-tax at the rate which would have been applicable if that leave salary had been drawn in India.'

This Amendment shall have effect from 1st April 1939.

Given under my hand this 5th day of April 1939.

ZETLAND,

One of His Majesty's Principal Secretaries of State.

I, Lawrence John Lumley, Marquess of Zetland, one of His Majesty's Principal Secretaries of State, in exercise of the powers conferred upon me by Section 247 of the Government of India Act, 1935, hereby make, with the concurrence of my Advisers, the following Amendment in the Civil Service Regulations, namely :—

To Article 862 of the said Regulations, the following sub-rule shall be added, namely :—

' (3) Any leave salary drawn outside India shall be subject to deduction of Indian income-tax and super-tax at the rate which would have been applicable if that leave salary had been drawn in India.'

This Amendment shall have effect from 1st April 1939.

Given under my hand this 5th day of April 1939.

ZETLAND,

One of His Majesty's Principal Secretaries of State."

R. S. SYMONS,

Deputy Secy. to the Govt. of India.

No. F. 7 (14)-R. I|39.

Copy forwarded to all Chief Commissioners ; the High Commissioner for India ; the several Departments of the Government of India [including the Financial Adviser, Military Finance, the Finance Officer, Communications, Secretary to the Executive Council of the Governor General, Secretary to the Governor General (Public), Secretary to the Governor General (Defence Co-ordination) and the Federal Court] ; the Political Department ; the Crown Finance Officer ; the Financial Commissioner, Railways ; the Military and Private Secretaries to His Excellency the Viceroy ; the Central Board of Revenue ; the Auditor General ; the Mint Masters ; the Master, Security Printing, India ; all Accountants General and the Comptrollers ; the Deputy Accountants General under the Accountant General, Posts and Telegraphs and the Accounts Officer, Telegraph Check Office, Calcutta ; the Director of Railway Audit and all Railway Audit Officers under his control ; the Controller of Railway Accounts ; the Chief Accounts Officers, East Indian Railway, Calcutta ; Eastern Bengal Railway, Calcutta ; Great Indian Peninsula Railway, Bombay ; North Western Railway, Lahore ; and Burma Railways, Rangoon ; the Director of Railway Clearing Accounts Office ; the Director of Audit, Defence Services ; and the Audit Officer, Indian Stores Department.

By order, etc.,

S. A. HASNIE,

Under Secy. to the Govt. of India.

H44FinD—1,100—17-6-39—GIPS

FA

S.B. 2

(4)

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
9 AUG. 1939
Diary No. 8222
File No.

C.No.43(6)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 31st July 1939.

RS 31/35

N. N S.U

From

T. S. Pillay, Esquire, M.A., B.L.,
First Secretary, Central Board of Revenue,

To

All Commissioners of Income-tax.

Sir,

Burma - Separation of - Dividends declared in 1936-37 - Refunds - Place of payment.

I am directed to invite a reference to Mr. Sheehy's letter No. 489-I.T./37, dated the 1st March 1937 on the subject indicated above and to say that the Commissioner of Income-tax, Burma has intimated that refunds to British Indian residents in respect of pre-separation dividends are also being granted in Burma on applications received there. The Board considers that there is no possibility of these refunds having been granted in both India and Burma in respect of the same dividends, on account of the fact that endorsements to the effect that refunds have been granted are usually made on the dividend warrants which have to be produced before the Income-tax Officer along with claims for refunds, but would be glad to have confirmation of this at a very early date.

I have the honour to be,
Sir,
Your most obedient servant,

2-8-39

First Secretary, Central Board of Revenue.

F 0 4 / S.No. 3 (5

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
9 AUG. 1939
Diary No. 8225
File No. RE 31/35

C.No.27(15)-I.T./39.
Central Board of Revenue.
Simla, the 4th August 1939.

...

From

T.S. Pillay, Esquire, M.A., B.L.,
First Secretary, Central Board of Revenue,.

To

All Chambers of Commerce.

All Commissioners of Income-tax
(including the Commissioner of Income-tax,
(Central), Bombay).

Sir,

Income-tax Amendment Act -
Depreciation allowance -
Rates of - Proposals regarding.

...

I am directed to invite your special attention to Board's Resolution No.63-Income-tax, dated the 5th August 1939 (published in the Gazette of India of the same date) with which have been published the Central Board of Revenue's proposals regarding revised rates of depreciation allowance.

(A)

I have the honour to be,
Sir,
Your most obedient servant,

4-8-39.
First Secretary, Central Board of Revenue.

Copy forwarded to the Income-tax Adviser to the Board for information.

(1)

Extract paragraph 2 from Appendix 'A' of Report on the Audit of Income-tax Receipts.

Par 26 of the manual (part)

2. It is laid down in paragraph 76 of the Income Tax Office Manual that the cases, in which certificates allowing deduction at a rate lower than the maximum are given, should be reviewed every year by the Income Tax Officers. It has been noticed that the review is not done anywhere.

(8

S.N.5

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,
Bangalore, the 22nd August 1939.

Issued 22/8/39

R.Dis.No. F. 31(Cdl II)-39 Judl. 31-39 Judl(2)

Issue 21/8

A copy of the undermentioned papers is forwarded to the Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and necessary action in contiunation of endorsement from this Residency R.Dis.No.F.31-39/Judl., dated the 17th April 1939.

S.N.30
R.Dis.F.31-39

By order, etc.,

6/c 21/8.

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

- - -

Encl. to S.N.1 P.U.C. 1. An extract of paragraphs 5 and 6 of the India Office letter No.F.1056/39 dated 11th April 1939.

-do- 2. Notification by the Government of India, Finance Department No.F.7(14)-R.I/39 dated the 18th May 1939.

(sp. copy placed below.) 19.8.39

ASRa.
19.8.39

S.N.6

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,
Bangalore, the 22nd August 1939.

Issue 21/8

R.Dis.No. F. 31(Conf.II)-39. Enc (1)
Judl.

A copy of the undermentioned paper is forwarded to the Assistant Commissioner of Income-tax, Civil and Military Station Bangalore, for information and necessary action.

By order, etc.,

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

- - -

S.N.2
P.U.C.

Letter from the Central Board of Revenue, C.No.43(6) I.T./39 dated the 31st July 1939.

(Sp. copy placed below).

NS.

S.N.)

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,
Bangalore, the 22nd August 1939.

Draft
Issued 22/8/39 Issue 21/8

R.Dis.No. F. 31(Cor.II) Judl. 39 Enc(2)

A

Return requested.

A copy of the undermentioned paper with the Gazette of India dated the 5th August 1939, is forwarded to the Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information.

By order, etc.,

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

19/8/39
19 - - -
A.S.R.
19.8.39

P.U.C.

Letter from the Central Board of Revenue, C.No.27(15)-I.T./39 dated the 4th August 1939.

(Sp. copy placed below.)

NS.

S.N.8

Draft IV

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,
Bangalore, the 22nd August 1939.

Issued 22/8/39

Issue 21/8

R.Dis.No.F. 31(Cash II)-39 Enc(2)
Judl.

A copy of the undermentioned paper is forwarded to the Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and necessary action, in continuation of endorsement from this Residency R.Dis.No.F.31-39/Judl., dated the 26th July 1939.

S.N.115
R.Dis.F.31-39

By order, etc.,

6/c 21/8

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

18/8/39
19 --- QSRa.
19.8.39

S.N.4
P.U.C.

Endorsement from the Central Board of Revenue, C.No.333-I.T./38 dated the 31st July 1939, with enclosures.

(Sp. copy placed below.)

NS.

S.N.79

(12)

D.Dis.No.27(13)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 2nd August 1939.

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE. 14 AUG. 1939. Diary No. 8462 File No. 99 31/39.

S.N.79 R.D. F.31-39. (cc)

Corrigendum.

In the title of the Board's letter D.Dis.No. 27(13)-I.T./39, dated the 29th May 1939 addressed to Messrs. Parry and Company, Madras, for the words and letters "1st April 1939" substitute "1st April 1938".

First Secretary, Central Board of Revenue.

Copy forwarded to all Commissioners of Income-tax (including the Commissioner of Income-tax, Central, Bombay), all Appellate Assistant Commissioners and the Income-tax Adviser to the Board.

Copy also forwarded to Messrs. Parry and Company Limited, Box No. 12, Madras.

By order, etc.,

First Secretary, Central Board of Revenue.

S.M.10

Circular No.21 of 1939.

C.No.39(7)-I.T./39.

Central Board of Revenue.

Simla, the 5th August 1939.

...

Circular

Government Securities - Held in the custody of the Accountant General, Posts & Telegraphs - Interest on - Deduction of tax at source - Exemption or abatement Certificates in respect of - Instructions regarding.

...

It has been brought to the notice of the Board that in respect of Government Securities held by Savings Bank depositors in the safe custody of the Accountant General, Posts and Telegraphs, the usual certificates granted by certain Income-tax Officers authorising deduction of tax at a rate less than the maximum rate are not suitable. The following instructions should therefore be followed in issuing the certificate in Form I.T.33:-

(1) The Accountant General, Posts and Telegraphs should be treated as the person paying the interest,

(2) The Savings Bank depositor should be treated as the person receiving the interest,

(3) The holdings of separate depositors should be shown separately even though one of them may be a minor whose income is included in that

of

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
14 AUG. 1939
Diary No. 8463
File No.

of the father for purposes of income-tax under section 16(3) of the Act, and

(4) descriptive particulars should be taken from the safe custody receipts given by the Accountant General, Posts & Telegraphs and the numbers of the Government securities need not be called for.

26 May 7.8.39

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax (including the Commissioner of Income-tax (Central), Bombay).

....

Copy forwarded to :

The Income-tax Adviser to the Board.

The Accountant General, Posts and Telegraphs with reference to his U.O.No.Mis(T)-686/28(j)-1, dated the 11th July 1939. The Certificate, in original, No.44/3749CR dated the 22nd May 1939, issued by the Income-tax Officer, Calcutta, District VI, is returned herewith.

By order, etc.,

26 May 7.8.39

First Secretary, Central Board of Revenue.

SR.
7/8

F.A.V

SN 12

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
23 AUG. 1939
Diary No. 8750
File No.

N. N.SU

Circular No.23 of 1939.

C.No.50(8)-I.T. /39.

CENTRAL BOARD OF REVENUE.

Simla, the 10th August 1939.

RD 31/39

CIRCULAR.

Appellate Assistant Commissioners - Hearing of appeals under section 23(4) and 27 - Procedure regarding.

In respect of every assessment under section 23(4) an assessee has now both the right to make an application to the Income-tax Officer under section 27 and also to file an appeal to the Appellate Assistant Commissioner under section 30, the time limit for both being the same. If the former application is rejected by the Income-tax Officer, the assessee has a further right of appeal to the Appellate Assistant Commissioner against the rejection. If an assessee first appealed under section 30 against the assessment and then subsequently applied under section 27 it could happen that the Appellate Assistant Commissioner might, without any knowledge ~~of the section~~ of the section 27 application, confirm an assessment which an Income-tax Officer had discharged under section 27 or the Appellate Assistant Commissioner's order under section 31 might inadvertently be nullified by a subsequent order by the Income-tax Officer under section 27. The following course should, therefore, be adopted in all cases in which an appeal is lodged against an assessment made under section 23(4).

2. When the Appellate Assistant Commissioner receives an appeal against an assessment under section 23(4), he should ask the

16)

Income-tax Officer, concerned —

(a) to report, when the time for filing an application under section 27 has expired, whether such an application has been filed; and

(b) if such an application has been received, to report in due course how it was disposed of.

Meanwhile, the Appellate Assistant Commissioner should keep the appeal pending. If the Income-tax Officer cancels the original assessment as a result of the application under section 27, the Appellate Assistant Commissioner should strike out the appeal as withdrawn; but if the application under section 27 is rejected as the assessee has one month from that date to file an appeal against that order, the Appellate Assistant Commissioner should hold over the appeal against the assessment order until an appeal against the order under section 27 has been lodged or the time limit for such an appeal has expired, whichever occurs first, and if an appeal against an order under section 27 is filed, he should dispose of both the appeals together.

3. Forms for the general use of the Appellate Assistant Commissioners and of the Income-tax Officers in making communications on this subject are attached. A supply of printed forms will be available in due course.

First Secretary, Central Board of Revenue.

To.....

To

All Commissioners of Income-tax, including the Commissioner of Income-tax (Central), Bombay, and

All Appellate Assistant Commissioners of Income-tax. It is requested that the estimated annual requirements of the forms may be communicated to the Board at an early date to enable it to consider the question of standardisation of the forms in the I.T. series.

The Income-tax Adviser to the Board.

By order, etc.,

First Secretary, Central Board of Revenue.

M.H.11/8.

(18

MEMORANDUM.

Appeal against assessment under section 23(4). 19 -19 .

Name of the assessee & G.I.R. Number. } _____

_____

Circle _____ District _____

QUERY.	REPLY.
The Income-tax Officer, _____ is requested to report whether an a application under section 27 has been filed.	
Place_____ Dated_____ } APPELLATE ASSISTANT COMMISSIONER.	Place_____ Dated_____ } INCOME-TAX OFFICER.

Notes:-(1) This report should be made when the time limit for filing an application under section 27 has expired.
(2) The bottom portion should be retained by the Income-tax Officer and a reply sent in it if the above answer is "yes".

Appeal against assessment under section 23(4) - 19 - 19 .

Name of the assessee and G.I.R.Number. } _____

_____

Circle _____ Direct _____

****

In continuation of my reply No.____dated _____19

I have the honour to state that the application under section 27 / the orignal assessment has been

has been rejected.* / cancelled.*

Place _____ Dated _____ } INCOME-TAX OFFICER.

To the Appellate Assistant Commissioner of Income-tax,

.....

* Delete inappropriate words.

S.N-13

(19

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,
Bangalore, the 26 th August 1939.

Issued 26/8/39 TS.

R.Dis.No. F.31(Coll.II)-39 Enc (1)
Judl.

Issue 26/8

A copy of the undermentioned paper is forwarded to the Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for necessary action, in continuation of endorsement from this Residency R.Dis.No.F.31-39/Judl., dated the 23rd June 1939.

S.N.81 'D'

By order, etc.,

O/C 25/8.

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

Issue 24-8-39

- - -

QSRo 24.8.39

Corrigendum from the Central Board of Revenue, D.Dis.No.27(13)-I.T./39 dated the 2nd August 1939.

S.N.9 P.U.C.

(Sp. copy kept below).

NS.

S.N 11

120

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,
Bangalore, the 26th August 1939.

Issued 26/8/39 PS.

1550 26/8

R.Dis.No. F.31(Coll.II)-39 Judl. Cue (20) 8h.

A copy of the undermentioned papers is forwarded to the Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and guidance.

By order, etc.,

O/C 25/8

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

24.8.39.

ASR. 24.8.39

- - -

S.N.10 to 12.
P.U.C.

Circulars from the Central Board of Revenue,

No.21 of 1939 dated the 5th August 1939,

No.22 of 1939 dated the 8th August 1939,

No.23 of 1939 dated the 10th August 1939,
with enclosure.

(With 3 spare copies).

NS.

S.N.15

(21

F.A.4

D.Dis.No.50(5)-I.T./39.

CENTRAL BOARD OF REVENUE

Simla, the 10th August 1939.

MEMORANDUM.

Cancelled vide S.N.37 31(IV)40

Appellate Assistant Commissioners - Consulting the Board on difficult points of law.

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE.
23 AUG. 1939
Diary No. 875-1
File No.
RS-31/39

Appellate Assistant Commissioners of Income-tax are informed that if they need advice on difficult points of law they should consult the Board and not the Commissioner. Any such reference should give, as precisely as possible, the facts of the case and the point or points on which the advice of the Board is desired and should invariably be accompanied by copies of any relevant orders.

15 - 8 - '39.
First Secretary, Central Board of Revenue.

To

All Appellate Assistant Commissioners of Income-tax.

Copy forwarded to all Commissioners of Income-tax (including the Commissioner of Income-tax(Central) Bombay) and the Income-tax Adviser to the Board.

By order, etc.,

15 - 8 - '39.
First Secretary, Central Board of Revenue.

J.P.

S N 16 S.N.III R.D 31(2)-39 (D) 22

To be substituted for the Order bearing the same number &date

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
23 AUG. 1939
Diary No. 8752
File No.
R548/39

R.DIS.No.95-I.T./38.
CENTRAL BOARD OF REVENUE.
Simla, the 8th July 1939.

....

ORDER

In exercise of the powers conferred by Sub-clause (b) of clause (11) of section 2 of the Indian Income-tax Act, 1922 (XI of 1922), the Central Board of Revenue hereby determines in the case of those Insurance Companies and Provident Societies which have to change their accounting year to the calender year in order to comply with the requirement of sub-section (1) of section 11 or sub-section (3) of section 82 of the Insurance Act, 1938 (IV of 1938), the period specified below to be the 'previous year' for the purposes of the assessment for the financial year commencing next after the year for which the assessment was made on the basis of a previous year other than the calender year, namely:-

(a) In the case of Companies whose accounting year ends on any date between the 1st January and the 31st March (both days inclusive).	The period from the end of their previous accounting year to the end of the calender year in which the change is made.
(b) In the case of Companies whose accounting year ends on any date between the 1st April and the 31st December (both days inclusive).	The period from the end of the accounting year for the next previous assessment to the end of the calender

year next preceding
the year for which
the assessment is to
be made.

First Secretary, Central Board of Revenue.

Copy forwarded to all Commissioners of Income-tax, All Chambers of Commerce, All Appellate Assistant Commissioners and the Income-tax Adviser to the Board.

Copy also forwarded to the Commerce Department, for information.

By order, etc.,

First Secretary, Central Board of Revenue.

M.H.11/8.

F.A.4
6

S. N. 18

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
8753
23/8
24 AUG. 1939
Diary No. 8820
File No. A.D. 31/39

24

Circular No.24 of 1939.
R.Dis.No.25(16)-I.T./39.
Central Board of Revenue.
Simla, the 15th August 1939.

...

Circular.

Double Incometax relief - British India and the United Kingdom - Persons resident and ordinarily resident in British India - Tax free income in the United Kingdom should be treated as part of Rs.4500 exempt under Section 4(1)(c).

...

A question has been raised as to the treatment of cases in which an assessee who is resident and ordinarily resident in British India has both income which is free of United Kingdom tax and also income which is liable to United Kingdom tax. Both these incomes are chargeable to tax in British India subject to the exemption of Rs.4,500/- under the proviso to section 4(1)(c). The income which is tax-free in the United Kingdom should be treated as part of the Rs.4,500/- as otherwise the double income-tax relief due upon the income which has suffered tax in both countries would be arbitrarily restricted.

First Secretary, Central Board of Revenue.

Copy forwarded to all Commissioners of Income-tax and the Income-tax Adviser to the Board.

SR.
16/8.

S-N 14 (25

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 11th September 1939.

35 a-1st Dept T

Issued 11/9/39 Jr.

Issue 7/9

R.Dis.No. F.31(Coll.II)-39 Encl (5)
Judl.

A copy of the undermentioned papers is forwarded to the Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and guidance.

By order, etc.,

6/c 7-9.

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

11 2.9.39

--- ASR 6.9.39

S.N.15 P.U.C. (sp.copy below)

1. Memorandum from the Central Board of Revenue, D.Dis.No.50(5)-I.T./39 dated the 10th August 1939.

S.N.18 P.U.C.

2. Circular from the Central Board of Revenue, No.24 of 1939 dated the 15th August 1939.

(With 3 spare copies of 2.)

NS

S.N 20

(26

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,
Bangalore, the 11th September 1939.

Issued 3 Dupl's II
11/9/39
Issue 7/9

R.Dis.No. F.31(Coll.II)-39 Enc (1)
Judl.

A copy of the undermentioned paper is forwarded to the Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information, with reference to endorsement from this Residency R.Dis.No.F.31-39/Judl., dated the 26th July 1939.

S.N.115
R.Dis.31(N)-39
'D'

By order, etc.,

6/c 7.9

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

4/2.9.39 - - - 6.9.39

S.N.16
P.U.C.
(Sp.copy below).

Order from the Central Board of Revenue, R.Dis.No. 95-I.T./38 dated the 8th July 1939.

NS.

S.N. 24 (2)

3 Drafts
Issued Draft III
4/9/39
Issue 7/9

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 11th September 1939.

R.Dis.No. F.31(Coll.II)-39 Enc (1)
Judl.

A copy of the undermentioned paper is forwarded to the Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information, in continuation of endorsement from this Residency R.Dis;No.F.31-39/Judl., dated the 19th July 1939.

S.N.107
R.D.F.31(I)-39
'D'

By order, etc.,

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

- - -

Endorsement from the Central Board of Revenue, C.No.24(4)-I.T./39 dated the 8th August 1939, with enclosure.

S.N.17
P.U.C.
(sp.c. below).

NS.

F.D.2/

S.N.22

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
4 AUG. 1939
Diary No. 8819
File No.

C.No.351-I.T./37.

CENTRAL BOARD OF REVENUE

Simla, the 11th August 1939.

From

T. S. Pillay, Esquire, M.A., B.L.,
First Secretary, Central Board of Revenue,

To

All Commissioners of Income-tax (including the Commissioner of Income-tax (Central) Bombay.)

All Chambers of Commerce and Trade Associations.

Sir,

Income-tax - Deductions of, from salary etc. - Memorandum of instructions for.

S.N.40 R.D.31-39 (I)

In continuation of my letter C.No. 35(3)-I.T./39, dated the 3rd April 1939, I am directed to say that after paragraph 7 of the Memorandum forwarded therewith the following paragraph should be inserted :-

S.N.74 R.D.31-39 (I)

" 7A. The pay which is for duty outside India and which is paid outside India is not taxable unless the recipient is resident and ordinarily resident in British India in the year of receipt and he would get the exemption of Rs. 4,500. No tax will be deducted at source in such cases"

I am to request that necessary correction may be made in the copies of the Memorandum forwarded to you.

I have the honour to be,
Sir,
Your most obedient servant,

16-8-39

First Secretary, Central Board of Revenue.

Copy .....

Copy forwarded to all Heads of Departments subordinate to the Board.

Copy also forwarded to all Appellate Assistant Commissioners and the Income-tax Adviser to the Central Board of Revenue.

K.C.S.
14/8.

SN 23 (29

F.A.H. 25/8/39

C.No.35(3)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 15th August 1939.

...

From

T.S. Pillay, Esquire, M.A., B.L.,

First Secretary, Central Board of Revenue,

To

All Commissioners of Income-tax
including the Commissioner of Income-tax
(Central), Bombay.

All Chambers of Commerce and
Trade Associations.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
29 AUG. 1939
Diary No. 8997
File No. 00 31/39.

Sir,

Income-tax - Deduction of, from salary etc. - Memorandum of Instructions for.

SN 22/6 N.C.

...

In continuation of my letter C.No.351-I.T./37 dated the 10th August 1939, I am directed to say that after example 3 in paragraph 14 of the Memorandum forwarded with my letter C.No.35(3)-I.T./39, dated the 3rd April 1939 the following note should be inserted:-

SN 40 R.D. 31-39 (I) D

SN 77 R.D. 31-39 (I) D

"Note.- The above examples show the method of deduction of tax in cases where the salary remains the same throughout the year. It is not, however, the intention that the tax should be collected in 12 equal monthly instalments in cases where, on account of the employee going on leave or for other reasons, the salary figure varies. In such cases the tax should be deducted on the amount paid every month at a rate representing the average rate of income-tax and super-tax per rupee applicable to the estimated total income of the employee, e.g. in the case of an employee going on leave the disbursing officers should calculate the average rate of income-tax and super-tax per rupee on the...

one basis of the --

(a) salary drawn during the year before the commencement of the leave; plus

(b) salary to be drawn while on leave; plus

(c) salary to be drawn on return from leave during the same fiscal year."

I am to request that necessary correction may be made in the copies of the Memorandum forwarded to you.

I have the honour to be,

Sir,

Your most obedient servant,

26 May

First Secretary, Central Board of Revenue.

Copy forwarded to all Heads of Departments subordinate to the Board.

Copy also forwarded to all Appellate Assistant Commissioners and the Income-tax Adviser to the Board.

D.O.C.No.54(5)-I.T/39.

Central Board of Revenue,

Simla, the 16th August 1939.

...

My dear Turner,

Superannuation Fund - Recognition - Postponement of assessment pending approval by the Board.

Your D.O.No.B.V.236/39, dated the 18th July 1939 to Mr. Sheehy.

...

With reference to paragraph 5 of the note forwarded with your letter quoted above, I am desired to say that in cases where an application has been submitted to the Board for the recognition of a superannuation Fund, the Income-tax Officer should adjourn the assessment until such time as the Board's orders have been received. This will obviate refunds in many cases. The sums paid in before the date from which recognition takes effect are not however exempt from tax.

Yours sincerely,

26 way

17-8-39.

A.C. Turner, Esqr., M.A., M.B.E., I.C.S.,
Commissioner of Income-tax,
Bombay.

....

Extract ..

S.N 24

J. Pmp 25/8/39

F.A 4

Extract paragraph 1 forwarded to the other Commissioners of Income-tax for information and guidance.

Copy forwarded to the Income-tax Adviser to the Board.

M.N.SJ

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
20 AUG 1939
Diary No. 8999

By order, etc.,

26 way

17-8-39.

First Secretary, Central Board of Revenue.

RA 31/39

SR.
18/8.

F.A 4

S N 25

32

J. Pony 25/8/39

M. N. SU

C.No.35(3)-I.T./39.

Central Board of Revenue.

Simla, the 15th August 1939.

...

From

T.S. Pillay, Esquire, M.A., B.L.,
First Secretary, Central Board of Revenue,

OFFICE OF THE
RESIDENT
BANGALORE.
No. 9200
No. RA 31/39

To

1. The Financial Adviser,
Military Finance.
2. The Financial Commissioner,
Railways.
3. The Crown Finance Officer.
4. The Finance Officer,
Communications.
5. The Auditor General.
6. All Accountants-General
(including the Military Accountant
General and the Accountant General,
Posts and Telegraphs).
7. The Comtrollers, Assam, North-West
Frontier Province, Sind and Orissa.
8. The Audit Officer,
Indian Stores Department.
9. The Deputy Accountants General,
Posts and Telegraphs, Delhi,
Calcutta, Madras and Nagpur
10. The Accounting Officer,
Telegraph Check Office, Calcutta.
11. The Director of Audit,
Defence Services.
12. The Director of Railway Audit.
13. The Controller of Railway Accounts.

Sir,

Income-tax - Deduction of,
from salary etc. - Memorandum
of instructions for.

In continuation of my letter C.No.35(3)-I.T./39,

✓ S.N 101
RD 31 39 (I) 6

dated the 29th June 1939, I am directed to say that a question has been raised whether in the case of an officer going on leave, say, in February, tax may be deducted from the final payment made to him in India not only in respect of his pay but also in respect of his leave salary up to 31st March though not paid in India. I am to say that under section 18(2) of the Act tax can only be deducted at the time of payment on the amount payable and no tax should, therefore be deducted on leave salary which is not paid in India. Tax should, however, be deducted on advances of leave salary paid in India.

I have the honour to be,
Sir,
Your most obedient servant,

Howell

First Secretary, Central Board of Revenue.

Copy forwarded to all Departments of the Government of India (including Reforms Office), the Private Secretary to H.E. the Viceroy, the Military Secretary to H.E. the Viceroy, the Secretary to Governor General, Public, the Secretary to H.E. the Crown Representative, the Director General, Posts and Telegraphs, the Master, Security Printing, India, the Mint Masters, Calcutta and Bombay.

Copy also forwarded to all Heads of Departments (including Commissioners of Income-tax and the Income-tax Adviser) subordinate to the Board.

By order, etc.,

Howell
18-8-39

First Secretary, Central Board of Revenue.

R.17/8.

S.N.26

(33

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE. 1939 Diary No. 9093 File No.

C.No. 333-I.T./38.

CENTRAL BOARD OF REVENUE

Simla, the 21st August 1939.

From

T.S. Pillay, Esquire, M.A., B.L.,

First Secretary, Central Board of Revenue,

To

All Commissioners of Income-tax.

Sir,

Audit of Income-tax Receipts and payments.

I am directed to invite a reference to paragraph 3 of Appendix 'A' to Mr. V.S. Sundaram's report on the question of auditing income-tax receipts, an extract of which was forwarded to you with my letter C.No.333-I.T./38 dated the 3rd July 1939, and to say that it is not the intention that the Income Tax Officers should themselves do all the calculations. The petty mistakes referred to could be eliminated if the calculations made by one clerk are checked by another. The Income Tax Officers and Inspecting Assistant Commissioners should, however, satisfy themselves that the clerks are competent to make the calculations accurately.

I have the honour to be,

Sir,

Your most obedient servant,

23 - 8 - '39.

First Secretary, Central Board of Revenue.

Copy forwarded to the Income-tax Adviser to the Board in continuation of Board's endorsement C.No.333-I.T./38 dated the 31st July 1939.

S.N.28

35

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,
Bangalore, the 15th September 1939.

Issued 15/9/39

Issue 14/9

R.Dis.No.F.31(Coll.II)-39 Enc (1)
Judl.

A copy of the undermentioned paper is forwarded to the Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and guidance.

By order, etc.,

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

- - -

S.N.24
P.U.C.

Endorsement from the Central Board of Revenue, C.No.54(5)-I.T/39 dated the 16th August 1939, with enclosure

12.9.39

13.9.39

NS.

S.N. 29

(31)

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 15th September 1939.

Issued 15/9/39

R.Dis.No. F.31(Coll.II)-39 Ex (1)
Judl.

Issue 14/9

A copy of the undermentioned paper is forwarded to the Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information, in continuation of endorsement from this Residency R.Dis.No.F.31-39/Judl., dated the 19th July 1939.

S.N.107
R.D.F.31-39
'D'.

By order, etc.,

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

- - -

Endorsement from the Central Board of Revenue,
C.No.35(3)-I.T./39 dated the 15th August 1939, with enclosure.

S.N.25
P.U.C.

12.9.39

AsRes
13.9.39

(37

S N 30

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 15th September 1939.

Issued 15/9/39

Issue 14/9

R.Dis.No. F.31(Coll.II)-39 Enc (1)
Judl.

A copy of the undermentioned paper is forwarded to the Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information, in with refrence to endorsement from this Residency R.Dis.No.F.31-39/ Judl., dated the 26th July 1939.

S.N.115
R.D.F.31-39(I).
'D'

By order, etc.,

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

- - -

S.N.26
P.U.C.

Letter from the Central Board of Revenue, C.No.333-I.T./38, dated the 21st August 1939.

12.9.39

13-9-39

NS.

S N 31

R.Dis.No.7(2)-I.T./39.

Government of India.

Finance Department (Central Revenues).

Simla, the 17th August 1939.

...

OFFICE MEMORANDUM

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
3 · AUG. 1939
Diary No. 9025
File No.
RD 31/39

Indian Income-tax Act, 1922 (XI of 1922) - Section 60(2) Relief under - Army Officers Salary drawn by, in advance, prior to leaving India.

...

Sub-section (1) of section 7 of the Indian Income-tax Act, 1922, as recently amended, lays down that advances by way of loan or otherwise of income chargeable under the head "Salaries" shall be deemed to be salary due on the date when the advance is received. Such advances will therefore be included in the assessment of the year in which they are received. The Government of India have accordingly decided that in the ordinary case of a voluntary drawing of an advance of salary no relief should be granted under this section and the concession sanctioned in this Department Office Memorandum C.No.7-I.T/35 dated the 21st May 1935 is hereby cancelled. Cases of exceptional hardship arising from the assessment of an advance of salary in the year of receipt will, however, be considered on their merits and such cases only should be reported to the Central

Central Board of Revenue for obtaining the orders of the Government of India.

19-8-39

Deputy Secretary to the Government of India.

To

The Secretary to the Government of India, Defence Department. (with one spare copy)

Copy forwarded to the Financial Adviser, Military Finance, for communication to the Military Accountant General, the Director of Audit Defence Services, all Assistant Directors of Audit, Defence Services, the Assistant Audit Officer, Quetta, and to all Controllers of Military Accounts.

* 8 copies

Copy also forwarded to all Commissioners of Income-tax (including the Commissioner of Income-tax (Central) Bombay) and the Income-tax Adviser to the Board.

By order, etc.,

Deputy Secretary to the Government of India.

SR.
18/8.

F.A (i)

S.N 32

(39

R.Dis.No.7(2)-I.T./39.

Government of India.

Finance Department (Central Revenues).

Simla, the 17th August 1939.

M.N.N.

From

T.S. Pillay, Esquire, M.A., B.L.,

Deputy Secretary to the Government of India,

To

All Commissioners of Income-tax.

Sir,

Indian Income-tax Act, 1922 -
Section 60(2) - Relief under.

I am directed to say that the Government of India have reconsidered the question of grant of relief under section 60(2) of the Act in view of the change in the basis of assessment of salaries introduced by section 7 of the Act, as recently amended, and the adoption of the Slab System. Their decision in respect of advances of salary is contained in Office Memorandum C. No.7(2)-I.T/39, dated the 17th August 1939 a copy of which has been endorsed to you. In respect of arrears of salary, in view of the provisions of amended section 7, the question of relief will only arise in cases where sums which were not known or admitted to be due in a previous year or years are involved. The Government of India have decided that the usual relief should be given in such cases. I am to add that for the purposes of relief the higher rate of tax contemplated in section

section 60(2) should be interpreted as the higher average rate of tax.

I have the honour to be,

Sir,

Your most obedient servant,

19-8-39

Deputy Secretary to the Government of India.

Copy forwarded to the Income-tax Adviser to the Board.

S N 33

6

F.A.2

Circular No.28 of 1939.

C.No.589-I.T./38.

Central Board of Revenue.

Simla, the 22nd August 1939.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
6 SEP 1939
Diary No. 9267
File No. 28 31/39

...

Circular

Indian Income-tax Act, 1922 - Section 61 - Assessees - Appearance by authorised representative - Power-of-attorney - Stamp duty.

S.N.89
R.D.31-39(I)

...

In Board's Circular No.12 of 1939 (R.Dis.No.589-I.T./38, dated the 7th June 1939) it is laid down that there is no substantial difference between a Vakalatnama or Muktarnama and the authorisation envisaged in section 61 of the Income-tax Act, 1922 and that being so, if the authorisation happens to be in favour of a lawyer it would be a Vakalatnama and chargeable as such with court-fees under Article 10 of Schedule II of the Court Fees Act, 1870. If the authorisation is in favour of any person other than a lawyer it would fall within the definition of a power-of-attorney and would as such be chargeable with appropriate stamp duty. The following further instructions should be followed in the matter :

(i) General authorisation : The question whether a Vakalatnama or power-of-attorney filed in income-tax proceedings before the Income-tax Officer is available also in further proceedings

in

in the same case before income-tax authorities would depend in each case upon the terms of the authorisation itself. If the authorisation expressly covers not only proceedings before the Income-tax Officer but also any further proceedings that may arise in the same case (including appeals, revision or refunds), no Vakalatnama or power-of-attorney should be demanded in respect of any of the further proceedings in the same case. In other words, all the proceedings in respect of one and the same case constitute one transaction and one power-of-attorney may be executed in respect of all the proceedings in that case. The stamp duty payable in respect of such an authorisation will be that mentioned in Article 48(c) of Schedule I of the Indian Stamp Act, 1899.

Similarly, a general power-of-attorney in respect of all the income-tax cases of the same assessee over a specified number of years may be executed in favour of a named representative. A higher stamp-fee will however be payable in respect of such general power-of-attorney under Article 48(d).

(ii) Partners of a firm: Partners of a firm who are being assessed in their individual capacities cannot execute a joint power-of-attorney because they have no common interest in the separate proceedings in respect of each partner. The Explanation to Article 48 of Schedule I of the Indian

Stamp

Stamp Act, 1899 does not apply to such a case because the power-of-attorney is not executed by each of the assessees in his capacity as partner of a firm but in his individual capacity. The Explanation will apply if the firm as such authorises a person or another firm to represent it in proceedings in which the first named firm figures as an assessee.

(iii) Banks: There is no distinction between a Bank applying for refund on behalf of its customers and a firm of accountants so applying on behalf of its clients. In either case a power-of-attorney will be necessary if the claim for refund necessitates the Bank acting for the customer. But in a case where a refund is clearly due and payable to a person, the mere authorisation of a bank to collect the amount due will not amount to a power-of-attorney.

(iv) Adhesive stamps : In the case of instruments chargeable with stamp duty, the use of adhesive stamps is permissible only in the case of instruments specified in section 11 of the Stamp Act and a power-of-attorney not being one of them, the use of adhesive stamps in respect thereof is not permissible. If 'impressed stamps' are not available in any particular place,

the

(43)

the assessees should make representations to the Provincial Government concerned.

2. In any case of doubt it is open to the Income-tax authorities to obtain a binding decision from the Collector of Stamps by impounding the document under section 33 of the Stamp Act and forwarding the same to the Collector under section 38(2) for his determination under section 40 of the Act. In the alternative, the executant of the authorisation may be asked to obtain adjudication by the Collector under section 31. It is also open to the executant to move the Chief Controlling Revenue Authority (defined in clause (9a) of section 3 of the General Clauses Act) to have the question referred to the High Court under section 57 of the Indian Stamp Act.

3. A misapprehension seems to exist in certain quarters that the Income-tax authorities demand stamp duty on the letter of authorisation in pursuance of the provisions of the Indian Income-tax Act, 1922. That is not the case and it does not rest with them to determine whether stamp duty is leviable on any particular document. The Indian Stamp Act, 1899 contains definite provisions for the purpose and the Income-tax authorities are merely insisting on compliance with the requirements of that Act. Further, stamp duty on powers-of-attorney

not

(44

not being one of the stamp duties or fees mentioned in entries 57 and 59 of the Federal Legislative List, the Central Government is not competent to remit such duty nor is the Central Legislature competent to reduce the rate of such duty. If therefore any assessee wants the duty on powers-of-attorney to be remitted by executive order or reduced by legislation, he should approach the Provincial Government in the metter.

D'Souza

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax;

All Appellate Assistant Commissioners of Income-tax;

All Chambers of Commerce;

The Income-tax Adviser to the Board.

SR.
24/8.

S.N. 36 6 12

F.A 24

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
6 SEP 1939
Diary No. 9268
File No.....
RD 31/39

Circular No. 30 of 1939.

R. Dis. No.41(1)-I.T./39.

CENTRAL BOARD OF REVENUE

Simla, the 23rd August 1939.

C I R C U L A R

Refund - Tax paid at source on dividends - Blank transfers of shares - Admissibility of to holders other than the registered holders of shares.

A question has been raised whether refund of tax paid at source on dividends from companies is admissible to holders of the relative shares whose names are not registered with the company and consequently the dividend warrants are not made out in the names of the real holders. Ordinarily refund in such a case would be admissible if the holders of the shares produce the dividend warrants and satisfy the Income-tax Officer that the shares are their property even though they may be registered in the name of some other person. The circumstances under which a person may claim that the income from shares not registered in his name is his income and refund may be allowed are set out below

(i) The first type of case is the case of shares registered in the names of nominees or trustees. The Income-tax Officer has to see that the refund in these cases is calculated on the proper basis and is given to the proper person and that no refund is given to the nominees.

(ii) The second type of case is where a man buys shares but the share transfer is not registered before ...

before the company's share registers are closed for the purpose of making up dividend warrants. In such a case the dividend will be sent by the company to the seller even though the income should be treated as the income of the purchaser. In fact the seller will be bound by his contract to pay over the dividend to the purchaser. In such a case it is necessary to see that the refund is given to the purchaser and not to the seller. It is also necessary to see that for supertax purposes the dividend is treated in the same manner.

(iii) The third type of case is that in which a person goes to a dealer and asks him to buy shares for him on what in England is called 'contango account'. In these cases the client does not when buying the shares ask for delivery. He merely puts up a margin for the purpose of speculating upon the price of shares. When the date for delivery comes, the dealer either insists upon his taking delivery of the shares, or putting up a further margin if the price has fallen, or selling out to cut any loss which may have been incurred. In the vast majority of cases the client never takes delivery of the shares. He merely puts up a further margin if he is still prepared to gamble on a rise in the price of the shares or he sells out so that he never at any time becomes the registered owner of shares. In effect his transaction has amounted to nothing more than betting on the price of shares. Since the number of a company's shares thus artificially bought may be many times the number of shares issued by the company it is essential that refunds in respect of dividends should be restricted to persons

who have bona fide bought shares with the object of taking them up and who at a subsequent date do in fact take delivery. The Income-tax Officer should therefore be careful that no refund is given in any case unless the dividend warrant is seen and marked in such a way that the refund cannot be given to more than one person in respect of one block of the same shares whilst no refund whatever is given to artificial blocks of shares which do not in fact exist.

(iv) There is the fourth type of case in which a wealthy assessee attempts to avoid super-tax by selling securities to poorer persons who may claim small incomes relief in respect of the shares. It is necessary to watch all likely cases of this kind carefully to see whether the provisions of section 44E or section 44F apply.

Dalway

First Secretary, Central Board of Revenue.

Copy forwarded to -

All Commissioners of Income-tax.
All Appellate Assistant Commissioners.
The Income-tax Adviser to the Central Board of Revenue.

By order, etc.,

Dalway

First Secretary, Central Board of Revenue.

K.C.S.
25/8.

S. N-35

(48

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 19th September 1939.

Issue 1879

R.Dis.No. F.31(Coll.II)-39 Judl. Encl. 10.

19-9-39

A copy of the undermentioned papers is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information.

By order, etc.,

O/C 18.9.

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

14.9.39.

14.9.39

S.N.31 } P.U.C
S.N.32 }
S.N.33 }
S.N.34 }

1. Office memorandum from the Government of India, Finance Department (Central Revenues), R.Dis.No.7(2)-I.T./39 dated the 17th August 1939.

2. Letter from the Government of India, Finance Department (Central Revenues), R.Dis.No.7(2)-I.T./39, dated the 17th August 1939.

3. Circular from the Central Board of Revenue No.28 of 1939, dated the 22nd August 1939.

4. Circular from the Central Board of Revenue No.30 of 1939, dated the 23rd August 1939.

(With 3 spare copies of 3 and 4.)

S. N. (36)

(49

Circular No.25 of 1939.

R.Dis. No.26(22)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 17th August 1939.

CIRCULAR.

Loss by Embezzlement or Theft - Allowance under Section 10(2)(xii), Income Tax Act, 1922.

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE
31 AUG 1939
Diary No. 9024
File No.....Edition)

Paragraph 64(v) of the Income-tax Manual (Seventh Edition) reads:-

> Sums embezzled by an employee are an admissible charge against the business of his employer."

In the case of Mulchand Hiralal, however, the Patna High Court has held that a loss by theft is not one of the allowances available to the assessee under Section 10. Disagreement was also expressed in that judgment with an earlier ruling of the same Court that a loss by embezzlement was allowable.

Since the above judgment was given the wording of Section 10(2)(xii) has been changed and now corresponds exactly to the wording of the United Kingdom Income Tax Act, 1918, Schedule D, Cases I and II, Rule 3(a), and the Board considers that the interpretation given by the United Kingdom High Court is now more appropriate, and should be followed in India. The point is dealt with very clearly in the judgment delivered by Rowlatt, J. in the case of Curtis v J. & G. Oldfield Limited, IX U.K., T.C.330, the relevant portion of the judgment reading:-

> " I quite think, with Mr. Latter, that if you have a business (which for the purposes of today at any rate I will assume) in the course of which you have to employ subrodinates, and owing.....

5-0)

> owing to the negligence or the dishonesty of the subordinates some of the receipts do not find their way into the till, or some of the bills are not collected at all, or something of that sort, that may be an expense connected with and arising out of the trade in the most complete sense. But here that is not the case at all. This gentleman was the Managing Director of the Company, and he was in charge of the whole thing, and all we know is that in the books of the Company which do exist it is found that moneys went through the books into his pocket. I do not see that there is any evidence at all that there was a loss in the trade in that respect. It simply means that the assets of the Company, moneys which the Company had got and which had got home to the Company got into the control of the Managing Director of the Company, and he took them out. It seems to me that what has happened is that he has made away with receipts of the Company dehors the trade altogether in virtue of his position as Managing Director in the office and being in a position to do exactly what he likes."

In following the above ruling Income-tax Officers should, before allowing any loss by theft or embezzlement by an employee, be fully satisfied from the evidence that the theft or embezzlement has in fact taken place and that the claim is genuine.

This interpretation should be followed in respect of all cases in which there are pending proceedings (whether assessment, appellate or revisional) but no case should be reopened and no fresh revision petition admitted in respect of years prior to the assessment year 1939/40.

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.
The Appellate Assistant Commissioners of Income-tax,
The Income-tax Adviser to the Board.

J.P.13/8.

S.N. (37) (51

F.424

T 4/1 1/8

N. N.SU

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE.
[illegible] 1939
Diary No. 9091
File No.....

RD 31/35

Circular No. 26 of 1939.

C.No.35(3) -I.T./39.

Central Board of Revenue.

Simla, the 19th August 1939.

...

CIRCULAR.

Liability to tax - Study leave allowance - Granted to officers of Government.

...

The study allowance granted to Government officers under rule 7 of the Study Leave Rules (Appendix 9 to the Posts and Telegraphs Compilation of the Fundamental Rules and Supplementary Rules, Volume II), not paid in British India, does not come within the mischief of Explanation 2 to section 4(1) of the Indian Income-tax Act, 1922, and is not therefore taxable. As regards officers of the Indian Medical Service, the regulations governing the grant of leave for purposes of study are contained in Appendix 6-A of the Regulations for the Medical Services of the Army in India. In their case, the study allowance is similar to the reward for passing a non-compulsory language examination and as such is exempt under section 4(3)(vii) of the Act.

2. The salary as distinct from the study allowance payable to an officer while on study leave is, however, earned in British India and is taxable.

26 May

First Secretary, Central Board of Revenue.

To
All Commissioners of Income-tax
(including Commissioner of Income-tax (Central), Bombay).
All Appellate Assistant Commissioners of income-tax and Income-tax Adviser to the Board.

Copy..

Copy forwarded to :-

1. The Financial Adviser,
   Military Finance.
2. The Financial Commissioner,
   Railways.
3. The Crown Finance Officer.
4. The Finance Officer,
   Communications.
5. The Auditor General.
6. All Accountants-General
   (including the Military Accountant
   General and the Accountant General,
   Posts and Telegraphs).
7. The Comptrollers, Assam, North-West
   Frontier Province, Sind and
   Orissa.
8. The Audit Officer,
   Indian Stores Department.
9. The Deputy Accountants General,
   Posts and Telegraphs, Delhi,
   Calcutta, Madras and Nagpur.
10. The Accounting Officer,
    Telegraph Check Office,
    Calcutta.
11. The Director of Audit
    Defence Services.
12. The Director of Railway Audit.
13. The Controller of Railway
    Accounts.

By order, etc.,

First Secretary, Central Board of Revenue.

R.21/8.

S.N. (38) C52

6 FAY

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE. 1939 Diary No. 9092 File No.....

RS 31/39

CIRCULAR NO. 27 OF 1939.

R.Dis.No.51(5)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 18th August 1939.

M. N.SV

CIRCULAR.

Life Insurance Companies - Treatment of interest on tax-free securities.

Under Rule 3(c) in the Schedule to the Indian Income-tax Act, 1922, in computing the surplus for the purpose of Rule 2, the whole amount of interest received in respect of tax-free securities of the Central Government is to be deducted. Where the basis of assessment is the adjusted surplus (and not the gross external earnings less management expenses under Rule 2(a)), such interest is excluded from the profits and gains of the life insurance business assessed under section 10, but this interest is not exempt and is not excluded from the total income of the Company. Care should be taken to see that it is duly included in total income under section 8 so that, whilst under the second proviso to that section it is free of income-tax, the super-tax payable on it is duly assessed and collected.

Where the basis is gross external earnings less management expenses this interest will automatically be included in total income, exempted from income-tax under the second proviso to section 8 and made chargeable to super-tax.

Dalway

First Secretary, Central Board of Revenue.

All Commissioners of Income-tax.
All Appellate Assistant Commissioners of Income-tax.
The Income-tax Adviser to the Central Board of Revenue.

M.

S. N. 5

(53

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,
Bangalore, the 14th September 1939.

Issued 14/9/39

Issue 13/9

R.Dis.No. F.31(Coll.II)-39 Enc (12) / Judl.

A copy of the undermentioned papers is forwarded to the Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information.

By order, etc.,

S/c 14-9

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

12.9.39

- - -

ASR. 13.9.37

P.U.C.

Circulars from the Central Board of Revenue,

No.25 of 1939, dated the 17th August 1939,
No.26 of 1939, dated the 19th August 1939,
No.27 of 1939, dated the 18th August 1939.

(With 3 spare copies each.)

(54

F All J 25/8/39

OFFICE OF THE HON'BLE THE RESIDENT MYSORE, BANGALORE. 1939 Diary No. 8998 File No.

C.No.40(4)-I.T./39. N.9 31/25

CENTRAL BOARD OF REVENUE

N. N.SV

Simla, the 15th August 1939.

From

T. S. Pillay, Esquire, M.A., B.L.,
First Secretary, Central Board of Revenue,

To

All Commissioners of Income-tax.

Sir,

Section 19A - Return of shareholders drawing dividends exceeding the prescribed amount.

Section 19A applies to all companies including sterling and foreign companies, but following the instruction contained in letter R.Dis.No. 122-I.T./25, dated the 6th March 1928, to all Commissioners the section has not been applied to companies whose dividends are paid outside British India. It has now been decided that certain amendments to the Indian Income-tax Act, 1922, and in particular the addition of Explanation 3 to Section 4(1), render it necessary to modify this instruction.

*not traceable

It would, however, be impracticable to insist, or attempt to insist upon full compliance with the section by companies which have only a very small proportion of their profits arising in British India. In requiring companies to comply with the section the following limitations should be applied.

(a) Full returns should be obtained from all companies ...

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companies, whether Indian, British, or foreign, and whether the dividends are paid in British India or abroad, which are resident in British India as defined in Section 4A;

(b) Full returns should also be obtained where the income liable to tax in British India amounts to 30% or more of the total income;

(c) In other cases the company's representative or agent should be informed that no objection will be raised if, in lieu of complying fully with the section, particulars are furnished of all dividends paid in British India or paid to persons resident in British India. The particulars required are the names and addresses of the recipients and the amount of the dividend paid to each;

(d) Any case of difficulty or refusal to furnish the particulars required should be reported through the Inspecting Assistant Commissioner to the Commissioner who, if he is unable to settle the matter personally, should report it to the Board.

I have the honour to be,
Sir,
Your most obedient servant,

First Secretary, Central Board of Revenue.

Copy forwarded to the Income-tax Adviser to the Central Board of Revenue.

D.Dis.No.265-I.T./38.

CENTRAL BOARD OF REVENUE.

Simla, the 25th August 1939.

....

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
6 SEP 1939
Diary No. 9266
File No.....

From

T.S. Pillay, Esquire, M.A., B.L.,
First Secretary, Central Board of Revenue,

To

The Commissioner of Income-tax,
Punjab, North-West Frontier
and Delhi Provinces.

Sir,

Indian Income-tax Act, 1922 - Section 16(3) - 'Adequate consideration' - Definition of.

...

I am directed to invite a reference to the concluding paragraph of Mr. Basak's letter No.266, dated the 14th April 1938 in which he suggested that the expression 'adequate consideration' occurring in section 16(3) of the Act should be clearly defined with a view to avoid controversies with the assessees. The Board does not consider it desirable to define the expression as any direct statement is likely to be misinterpreted. The Income-tax Officer should, however, consult the Inspecting Assistant Commissioner if he has any difficulty in cases falling under section 16(3) and every case, in which it is doubtful whether the consideration for a transfer is adequate or not for the purposes of this section, should be referred to the Income-tax Adviser to the

Board...

571

Board.

I have the honour to be,

Sir,

Your most obedient servant,

29-8-35

First Secretary, Central Board of Revenue.

Copy forwarded to the other Commissioners of Income-tax and the Income-tax Adviser to the Board.

By order, etc.,

First Secretary, Central Board of Revenue.

R.28/8.

S.N 42

(58

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 21 September 1939.

Issue 20/9

R.Dis.No. F.31(Coll.II)-39 / Judl.

21/9/39

A copy of the undermentioned papers is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information.

By order, etc.,

S/c 20-9.

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

- - -

S.N.40 1. Letter from the Central Board of Revenue, C.No.40(4)-I.T./39 dated the 15th August 1939.

S.N.41 2. Endorsement from the Central Board of Revenue, D.Dis.No.265-I.T/38 dated the 25th August 1939, with enclosure

S/. copy below.

19.9.39.

NS

19.9.39

S N 43

(59

F 44 Joint 11/9/39

Circular No. 34 of 1939.

R.Dis.No.46(7)(ii)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 31st August 1939.

...

M. NW

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
15 SEP 1939
Diary No. 9610
File No. 1231/39.

Circular.

Indian Income-tax Rules, 1922 - New Rule 2 to 6B - Registration of firms - Registration to be granted only at the time of assessment - Board's Circular No. 7 of 1939.

...

S N 73
A D 31-39 (1)

In the Circular quoted above, the Board directed that no certificate under Rule 4 or 6A should be granted otherwise than at the time of assessing the total income of the firm under section 23 of the Act. It has come to the notice of the Board that the postponement of Registration to the last stage causes hardship in certain cases where the firm at the time of assessment has been dissolved or has been succeeded to by a person (e.g. Company) who cannot claim the benefit of Registration. Rule 2 only prescribes the latest date by which an application for registration should be made and that limit in ordinary cases is before the assessment under section 23(3) is actually completed. There is nothing in the Act to prevent the claim of registration being made at any time and if in the exceptional circumstances mentioned above a firm applies for Registration before it is dissolved, there is no objection to the granting of registration at that time even though sometime may elapse before the assessment is actually made. If, in such a case, at the time of assessment, any fresh facts come

to...

to light which suggest that the Registration should not have been granted, the case should be submitted to the Commissioner for cancellation of the Registration under section 33 of the Act or if the case falls under section 23(4) the income-tax Officer could himself, if necessary, cancel it after giving requisite notice to the assessee.

Delway

First Secretary, Central Board of Revenue.

All Commissioners of Income-tax.

All Appellate Assistant Commissioners of Income-tax.

The Income-tax Adviser to the Board.

R.2/9.

FRW

S N 44

61

CONFIDENTIAL.

Circular No. 35. of 1939.

R.Dis.No.46(7)(ii)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 31st August 1939.

....

IP 19/9/39

S.N.71 c.f. 130

M.W.N. OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE.
9612 15/9 15 SEP 1939
Diary No. 9613.
File No. 2931/39

Circular.

The Indian Income-tax (Amendment) Act 1939 - Notes for guidance of officers - Section 23, sub-section (5).

....

The notes on sub-section 5 of section 23 on page 23 lay down the procedure to be followed with regard to the assessment of registered firms. The instructions (a), (b) and (c), etc. are not intended to be a chronological sequence of events. In most cases the assessee puts in an application for registration only after the receipt of a notice under section 22(2). When a firm has been registered in previous years, an application form for renewal of Registration should be sent along with the notice under section 22(2). Of course, if the constitution has meanwhile changed, the firm will apply for a fresh registration if it so desires.

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

All Appellate Assistant Commissioners of Income-tax.

The Income-tax Adviser to the Board.

R.2/9.

F.D 4/

S N 45

(62

C.No.35(3)-I.T./39.

CENTRAL BOARD OF REVENUE

Simla, the 29th August 1939.

From

T. S. Pillay, Esquire, M.A., B.L.,

First Secretary, Central Board of Revenue,

To

All Commissioners of Income-tax,

(including the Commissioner of Income-tax (Central) Bombay)

All Chambers of Commerce and

Trade Associations.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
16 SEP 1939
Diary No. 9637
File No. 88 21 7/39

Sir,

Income-tax - Deduction of, from salary, etc. - Memorandum of Instructions for -

.....

I am directed to invite a reference to my letter C.No.35(3)-I.T./39, dated the 15th August 1939, on the subject noted above and to say that for the words and figures "10th August 1939" occurring in line 2 thereof the words and figures "11th August 1939" may kindly be substituted.

I have the honour to be,
Sir,
Your most obedient servant,

First Secretary, Central Board of Revenue.

Copy forwarded to all Heads of Departments subordinate to the Board.

Copy also forwarded to all Appellate Assistant Commissioners and the Income-tax Adviser to the Board.

M.H.30/8.

No.F.31(18)-E/39.

A copy of the undermentioned papers is forwarded to the

Hon'ble the Resident at Hyderabad,
in Mysore,
for Central India,
Rajputana,
the States of Western India,
the Punjab States,
Resident for Baroda and the Gujarat States,
in Kashmir,
at Gwalior and for the States of Rampur and Benares,
for the Madras States,
Kolhapur and the Deccan States,
the Eastern States,
Military Adviser-in-Chief, Indian States Forces,

for information, in continuation of endorsement from the Political Department No.F.31(18)-E/39, dated the 25th July 1939.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
20 SEP 1939
Diary No. 9764
File No.

By order, etc.,

for Secretary to His Excellency
the Crown Representative.

Political Department,
Simla.
The 15th September 1939.

Circular letter from the Central Board of Revenue C.No.351-I.T/37, dated the 11th August 1939.

Circular letter from the Central Board of Revenue C.No.35(3)-I.T/39, dated the 15th August 1939.

Circular letter from the Central Board of Revenue to Accounts and Audit Officers C.No.35(3)-I.T/39 dated the 15th August 1939.

(With 8 S.Cs.)

APJ.

(64

C.No.351-I.T./37.

Government of India.
FINANCE DEPARTMENT (CENTRAL REVENUES)

Urdu S.N.22 (2)

Simla, the 11th August 1939.

From

T. S. Pillay, Esquire, M.A.,B.L.,
Deputy Secretary to the Government of India,

To

All Provincial Governments and Administrations.

Sir,

Income-tax - Deductions of, from salary etc. - Memorandum of instructions for.

In continuation of my letter C.No.35(3)-I.T./39, dated the 3rd April 1939, I am directed to say that after paragraph 7 of the Memorandum forwarded therewith the following paragraph should be inserted:-

" 7A. - The pay which is for duty outside India and which is paid outside India is not taxable unless the recipient is resident and ordinarily resident in British India in the year of receipt and he would get the exemption of Rs. 4,500.

No tax will be deducted at source in such cases."

I am to request that necessary correction may be made in the copies of the Memorandum forwarded to you.

I have the honour to be,
Sir,
Your most obedient servant,

Sd/- T.S.Pillay,
16-8-39.
Deputy Secretary to the Government of India.

Copy forwarded to all Departments of the Government of India (including Financial Adviser, Military Finance and Reforms Office), the Financial Commissioner, Railways, the Crown Finance Officer, Communications, the Private Secretary to H.E. the Viceroy, the Military Secretary to H.E. the Viceroy, the Secretary to Governor General, Public, the Secretary to H.E. the Crown Representative, the Auditor General, the Director General, Posts and Telegraphs, the Master, Security Printing, India, the Mint Masters, Calcutta and Bombay, all Accountants General, * (including the Military Accountant General), the Comptrollers, Assam, North-West Frontier Province, Sind and Orissa, The Audit Officer, Indian Stores Department, the Deputy Accountants General, Posts and Telegraphs, Delhi, Calcutta, Madras, Nagpur, the Accounting Officer, Telegraph Check Office, Calcutta, the Director of Audit, Defence Services, the Director of Railway Audit and the Controller of Railway Accounts.

* including Accountant General, Posts and Telegraphs.

Copy also forwarded to the Income-tax Advisor, Central Board of Revenue.

By order, etc.,

Sd/-K.B.Deb,

for Deputy Secretary to the Government of India.

(66

Copy of a letter C.No.35(3)-I.T./39, dated the 15th August 1939, from the Deputy Secretary to the Government of India, Finance Department (Central Revenues) to all Provincial Governments and Administrations.

.....

vide SN 23 (a)

Income-tax- Deduction of, from salary, etc. - Memorandum of Instructions for.

In continuation of my letter C.No.351-I.T./37, dated the 10th August 1939, I am directed to say that after example 3 in paragraph 14 of the Memorandum forwarded with my letter C.No. 35(3)-I.T./39, dated the 3rd April 1939 the following note should be inserted:-

"Note. The above examples show the method of deduction of tax in cases where the salary remains the same throughout the year. It is not, however, the intention that the tax should be collected in 12 equal monthly instalments in cases where, on account of the employee going on leave or for other reasons, the salary figure varies. In such cases the tax should be deducted on the amount paid every month at a rate representing the average rate of income-tax and super-tax per rupee applicable to the estimated total income of the employee, e.g. in the case of an employee going on leave the disbursing officers should calculate the average rate of income-tax and super-tax per rupee on the basis of the --

(a) salary drawn during the year before the commencement of the leave; plus

(b) salary to be drawn while on leave; plus

(c) salary to be drawn on return from leave during the same fiscal year."

I am to request that necessary correction may be made in the copies of the Memorandum forwarded to you.

APJ.

Copy forwarded to all Departments of the Government of India (including Financial Adviser, Military Finance and Reforms Office), the Financial Commissioner, Railways, the Crown Finance Officer, the Finance Officer, Communications, the Private Secretary to H.E. the Viceroy, the Military Secretary to H.E. the Viceroy, the Secretary to Governor General, Public, the Secretary to H.E. the Crown Representative, the Auditor General, the Director General, Posts and Telegraphs, the Master, Security Printing, India, the Mint Masters, Calcutta and Bombay, all Accountants-General, (including the Military Accountant General), the Comptrollers, Assam, North-West Frontier Province, Sind and Orissa, the Audit Officer, Indian Stores Department, the Deputy Accountants General, Posts and Telegraphs, Delhi, Calcutta, Madras, Nagpur, the Accounting Officer, Telegraph Check Office, Calcutta, the Director of Audit, Defence Services, the Director of Railway Audit and the Controller of Railway Accounts.

*including Accountant General, Posts and Telegraphs.

Copy also forwarded to the Income-tax Adviser, Central Board of Revenue.

By order, etc.,

Sd/- K.B.Deb
18-8-39.

for Deputy Secretary to the Government of India.

APJ.

(68

Vide S.N.25 (2)

C.No.35(3)-I.T./39.

Central Board of Revenue.

Simla, the 15th August 1939.

.....

From

T.S.Pillay, Esquire, M.A., B.L.,

First Secretary, Central Board of Revenue,

To

1. The Financial Adviser, Military Finance.
2. The Financial Commissioner, Railways.
3. The Crown Finance Officer.
4. The Finance Officer, Communications.
5. The Auditor General.
6. All Accountants-General

(including the Military Accountant General and the Accountant General, Posts and Telegraphs).

7. The Comptrollers, Assam, North-West Frontier Province, Sind and Orissa.
8. The Audit Officer, Indian Stores Department.
9. The Deputy Accountants General,

Posts and Telegraphs, Delhi, Calcutta, Madras and Nagpur.

10. The Accounting Officer,

Telegraph Check Office, Calcutta.

11. The Director of Audit, Defence Services.
12. The Director of Railway Audit.
13. The Controller of Railway Accounts.

Sir,

Income-tax - Deduction of, from salary etc. - Memorandum of instructions for.

.....

In continuation of my letter C.No.35(3)-I.T./39, dated the 29th June 1939, I am directed to say that a question has been

raised/-

raised whether in the case of an officer going on leave, say, in February, tax may be deducted from the final payment made to him in India not only in respect of his pay but also in respect of his leave salary up to 31st March though not paid in India. I am to say that under section 18(2) of the Act tax can only be deducted at the time of payment on the amount payable and no tax should, therefore, be deducted on leave salary which is not paid in India. Tax should, however, be deducted on advances of leave salary paid in India.

I have the honour to be,
Sir,
Your most obedient servant,

T.S.Pillay,

First Secretary, Central Board of Revenue.

Copy forwarded to all Departments of the Government of India (including Reforms Office), the Private Secretary to H.E. the Viceroy, the Military Secretary to H.E. the Viceroy, the Secretary to Governor General, Public, the Secretary to H.E. the Crown Representative, the Director General, Posts and Telegraphs, the Master, Security Printing, India, the Mint Masters, Calcutta and Bombay.

Copy also forwarded to all Heads of Departments (including Commissioners of Income-tax and the Income-tax Adviser) subordinate to the Board.

By order, etc.,

Sd/- T.S.Pillay,
18-8-39.

First Secretary, Central Board of Revenue.

S N 47

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 27th September 1939.

Delhi Issued 27/9/39

Issue 25/9

R.Dis.No. F.31(Coll.II)-39/Judl.

A copy of the undermentioned paper is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and guidance, with reference to endorsement from this Residency R.Dis.No. F.31-39/Judl., dated the 26th June 1939.

S.N.76
R.Dis.31-39(II)

By order, etc.,

d/c 25.9.

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

- - -

S.N.43
P.U.C.

Circular from the Central Board of Revenue, No.34 of 1939 dated the 31st August 1939.

(With 4 spare copies)

22.9.39

22.9.39

NS

S.N 48

CONFIDENTIAL.

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 27 September 1939.

Issue 25/9

R.Dis.No.F.31(Coll.II)-39
Judl.

A copy of the undermentioned paper is forwarded to Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information, with reference to letter from this Residency R.Dis.No.F.31-39/Judl., dated the 23rd June 1939.

S.N.82
R.Dis.No.F.31-39(II)

By order, etc.,

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

- - -

S.N.44
P U C

Circular from the Central Board of Revenue, No.35 of 1939 dated the 31st August 1939.

(With 4 spare copies.)

22.9.39

22.9.39

NS

S.N.49

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 27 September 1939.

R.Dis.No. F.31(Coll.II)-39/Judl.

A copy of the undermentioned paper is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for necessary action, in continuation of endorsement from this Residency R.Dis.No. F.31(~~Coll.II~~)-39/Judl., dated the 15th September 1939.

S.N.27

By order, etc.,

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

S.N.45
P.U.C.

(Sp.copy kept below)

Letter from the Central Board of Revenue,
C.No.35(3)-I.T./39 dated the 29th August 1939.

S N 50

4 Mch Draft

Issue 25/9

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 27th September *1939*.

R.Dis.No. F.31(Coll.II)-39 / Judl.

Issued 27/9/39.

A copy of the undermentioned paper(s) is forwarded to the
Collector and District Magistrate,
Residency Surgeon,
Commissioner of Police,
Inspector of Schools,
District and Sessions Judge, Registrar of Assurances and Regr. of Firms and Joint Stock Companies,
Officer in charge of the Hon'ble the Resident's Treasury,
President, Municipal Commission,
Manager, Residency Press,

Civil and Military Station, Bangalore, for information,

~~for information;~~ in continuation of ~~with reference to~~ ~~the correspondence ending with (his)~~

~~Memorandum~~ / ~~letter~~ / endorsement from this Residency R.Dis. No.F.31-39/Judl.,

dated the 17th August 1939.

S.N.133 / R.D.31-39(I) (1)

~~No.~~ ~~, dated the~~

By order, etc.,

~~Secretary~~ / Asst. Secy. to the Resident in Mysore.

List of papers.

S.N. 46 / c.f. 64

1. Circular letter from the Central Board of Revenue C.No.351-I.T/37 dated the 11th August 1939.

S.N. 46 / c.f. 66

2. Circular letter from the Central Board of Revenue C.No.35(3)-I.T/39 dated the 15th August 1939.

S.N 46 / c.f 68 (G.U.C)

3. Circular letter from the Central Board of Revenue to Accounts and Audit Officers C.No.35(3)-I.T/39 dated the 15th August 1939.

(sf. copies below)

22.9.39

22.9.39

Circular No. 38 of 1939.

R.Dis. No.31(7)-I.T./39.

CENTRAL BOARD OF REVENUE

Simla, the 31st August 1939.

OFFICE OF THE RESIDENT IN MYSORE, BANGALORE.
20 SEP 1939
Diary No. 9755
File No.....

C I R C U L A R

Appeals - Income-tax - Hearing of - Presence of the Income-tax Officer.

The Board desires to amplify the instructions in paragraph 5 of Circular No. 3 of 1939 dated 3rd April 1939 as follows :-

All appeal petitions after the appeals have been admitted will be forwarded from time to time to the Income-tax Officer concerned by the Appellate Assistant Commissioner with an indication wherever possible of the date and place of the hearing. In order to enable the Inspecting Assistant Commissioner to decide in which cases it is desirable for the Income-tax Officer to appear personally, the latter should submit periodically a list of cases in which appeals have been lodged in the following form :-

(a) Name of party

(b)(i) Amount of income assessed

(ii) Tax lavied

(iii) Whether tax has been paid

(c)(i) Points raised in the appeal

(ii) Amount of income in dispute

(iii) Tax reduction claimed

(d) Income-tax Officer's remarks as to whether in his opinion his presence is necessary at the hearing of the appeal and the reasons for it.

Only in cases where the Income-tax Officer considers his ...

his presence necessary at the hearing should the records be sent to the Appellate Assistant Commissioner through the Inspecting Assistant Commissioner; but in other cases the records should be sent direct to the Appellate Assistant Commissioner as instructed in Circular No. 22 of 1939 dated 8th August 1939.

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax including the Commissioner of Income-tax (Central), Bombay.

All Appellate Assistant Commissioners of Income-tax.

The Income-tax Adviser to the Central Board of

K.C.S.
5/9.

C.No.30(16)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 4th September 1939.

From

T. S. Pillay, Esquire, M.A.,B.L.,

First Secretary, Central Board of Revenue,

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
Diary No. 9758

All Commissioners of Incometax,
(including Commissioner of Income-tax
Central, Bombay).

Sir,

Indian Income-tax (Amendment) Act, 1939 -
Notes for the Guidance of Officers -
Correction slip to-

In continuation of my letter C.No.30(10)-I dated the 19th June 1939, I am directed to forward 17 copies of correction slip No.2 dated the 9th August 1939 to the Notes for the guidance of Officers.

I have the honour to be,

Sir,

Your most obedient servant,

5. 9. 39.

First Secretary, Central Board of Revenue.

J.G./M.

CORRECTION SLIP NO.2, DATED THE 9TH AUGUST 1939.

Indian Income-tax (Amendment) Act, 1939

NOTES FOR THE GUIDANCE OF OFFICERS.

---

1. Page 12: Instructions regarding tax payable under the head "Income from Property".

....

For 'sub-clause (vi)' substitute 'sub-clause (vii)'.

---

2. Page 21: Instructions regarding deduction of income-tax from interest or salary paid to non-residents.

....

In line 17 from the top, for the words "but should he fail" substitute the words "but he should not fail".

CORRECTION SLIP NO.2, DATED THE 9TH AUGUST 1939.

Indian Income-tax (Amendment) Act, 1939.

NOTES FOR THE GUIDANCE OF OFFICERS.

---

1. Page 12: Instructions regarding tax payable under the head "Income from Property".

....

For 'sub-clause (vi)' substitute 'sub-clause (vii)'.

---

2. Page 21: Instructions regarding deduction of income-tax from interest or salary paid to non-residents.

....

In line 17 from the top, for the words "but should he fail" substitute the words "but he should not fail".

S.N. 53

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,
Bangalore, the 28th September 1939.

Issue 27/IX
Issued 28/9/39.

R.Dis.No. F.31(Coll.II)-39 Judl. Enc. 5.

A copy of the undermentioned paper is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information.

By order, etc.,

S/C 27.9.

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

- - -

26-9-39

26-9-39

S.N.51
P.U.C.

Circular from the Central Board of Revenue, No.38 of 1939 dated the 31st August 1939.

(With 4 spare copies.)

S.N.52

The reply to this communication should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

R.Dis. No. F.31(Coll.II)-39 Enc.8
Judl.

FROM

THE SECRETARY TO THE HON'BLE THE RESIDENT IN MYSORE.

Issued. 28/9/39

To

The Inspecting Assistant Commissioner of Income-tax,
Civil and Military Station, Bangalore.

Dated Bangalore, the 28th September *1939*

Indian Income-tax (Amendment) Act, 1939 -
Notes for the guidance of officers-
Correction slip to-

S.N.95
R.D.31-39 (Judl.)

SIR,

In continuation of of my letter R.Dis.No.F.31-39/Judl., dated the 6th July 1939, I am directed to forward 8 copies of correction slip No.2 dated the 9th August 1939 to the Notes for the guidance of Officers.

Enc. to
S.N.52
P.U.C.

I have the honour to be,
Sir,
Your most obedient servant,

G/C
279.

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

26.9.39

26.9.39

S N. (55)

F.D.4

Circular No. 32 of 1939.

R.Dis.No. 26(16)-I.T./39.
CENTRAL BOARD OF REVENUE

Simla, the 28th August 1939.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
15 SEP 1939
Diary No. 9612
File No. PD 31/39

C I R C U L A R

Liability to income-tax - Un-employed pay (including special unemployed pay) - Payment made abroad.

Un-employed pay (including special un-employed pay) disbursed abroad to Indian Army Officers residing ex-India cannot properly be regarded as having been 'earned' in British India and is therefore not taxable.

First Secretary, Central Board of Revenue.

Copy forwarded to -

All Commissioners of Income-tax,
All Appellate Assistant Commissioners,
The Income-tax Adviser to the Central Board of Revenue.

By order, etc.,

First Secretary, Central Board of Revenue.

K.C.S.
30/8.

F.1 V

J. Comp 1829/35

S. N. 56

Circular No. 39 of 1939.

R.Dis.No.31(21)-I.T/39.

Central Board of Revenue.

Simla, the 7th September, 1939

M.N.S.U

7031/39

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE
22-SEP
Diary No. 9756
File No.

C I R C U L A R

Indian Income-tax Act, 1922 - Section 34(2) - Time limit - Applicability of to pending proceedings for previous years.

The time limit laid down in sub-section (2) of section 34 of the Act is applicable to proceedings under section 34 which were started in earlier years but could not, for any reason, be completed before the Amendment Act came into force on 1st April 1939. Laws prescribing limitation are generally regarded as procedural in character and consequently they are held to govern proceedings instituted before and pending at the time such laws come into force. Further, had it been the intention of the Legislature that sub-section (2) of section 34 should not have retrospective effect it would have enacted a proviso similar to that added to sub-section (1) of that section.

Dewan

First Secretary, Central Board of Revenue.

All Commissioners of Income-tax.
All Appellate Assistant Commissioners of Income-tax.
The Income-tax Adviser to the Central Board of Revenue.

B.A.
8/9/39

No. Mis 39.40 SNSS

OFFICE OF THE INCOME-TAX OFFICER,
CIVIL AND MILITARY STATION, BANGALORE.

Dated 20th September 39.

FROM

The INCOME-TAX OFFICER, CIVIL AND MILITARY STATION,
BANGALORE.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
22 SEP 1939
Diary No. 9839
File No.

To

The Secretary
to the Hon'ble the Resident and
Commissioner of Income-tax, Bangalore.

SIR,

Encl. 1

The Gazette of India dated the 5th August 1939 forwarded with your endorsement M.Dis. No.F.31(Col.II)-39/Judl is returned herewith.

I have the honour to be,
Sir,
Your most obedient servant,

J. N. Nagagopal
Income-tax Officer.

DESPATCHED
20 SEP. 1939

S N 5-9 (83

No. I.T.G.L.

Office of the Inspecting Asst.Commissioner
Civil & Military Station, Bangalore.
Dated 20th September 1939.

J. M. 22/9/39

From

The Inspecting Assistant Commissioner of Income-tax,
Civil and Military Station,
Bangalore.

N. NW

7031 II/39

To

The Commissioner of Income-tax,
Civil and Military Station,
Bangalore.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
9613 15/9 22 SEP 1939
Diary No. 9843.
File No.....

Sir,

Burma - Separation of - Dividends declared in 1936-37 - Refunds - Place of payment - Board's C.No.43(6)-I-T./39 dated 31st July 39.

S.N. 2 ← C.P.-39 (2)

With reference to your endorsement No.F.31/Judl (Col.11) -39 dated 22nd August 1939, I have the honour to state that refunds of tax in respect of dividends are made only on production of the dividend warrants along with the claims for refunds and that endorsements to the effect that refunds have been granted are invariably made on the warrants.

X 3 ir 6
C.P. 9

I have the honour to be,
Sir,
Your most obedient servant,

J. L. Nagagopal
For Inspecting Asst.Commr.
of Income-tax.

RSR.

DESPATCHED
20 SEP. 1939

FAV

S.N.60

(84)

D. Dis. No. 26(30)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 14th September, 1939.

From

T. S. Pillay, Esquire, M.A., B.L.,

First Secretary, Central Board of Revenue,

To

The Commissioner of Income-Tax,

Bengal.

Sir,

Liability to income-tax - Securities held by a State in Burma - Interest on - Question regarding -.

With reference to your letter No. 10991/1R/17/39/40-C.T., dated the 30th August 1939, I am directed to say that interest on securities held by a State in Burma is not taxable under the Indian Income-tax Act.

I have the honour to be,

Sir,

Your most obedient servant,

First Secretary, Central Board of Revenue.

Copy, with a copy of the letter replied to, forwarded to all other Commissioners of Income-tax, all Appellate Assistant Commissioners and the Income-tax Adviser to the Board.

By order, etc.,

First Secretary, Central Board of Revenue.

B.M.

OFFICE OF THE
RESIDENT
MYSORE, BANGALORE.
27 SEP 1939
Diary No. 10,021
File No. R. 21/39.

(13

Copy of letter No. 10991/1R/17/39-40-C.T., dated the 30th August, 1939, from the Commissioner of Income-tax, Bengal, to the Secretary, Central Board of Revenue, Simla.

Refunds and exemption certificates - Application for - By a state in Burma.

I have the honour to request you to be so good as to let me know whether the Burmese Native States should still be allowed the benefit of the provisions of paragraph 79(1) of the Income Tax Manual.

---

page 242 of the I.T. Manual. (Not put up)

F.A.4.

S.N.B.T.

C. No. 21(9)-I.T./39

CENTRAL BOARD OF REVENUE

J. PKP 24/5/39

Simla, the 9th September, 1939.

From

T. S. Pillay, Esquire, M.A., B.L.
First Secretary, Central Board of Revenue,

To

D. Basu, Esquire, B.Sc., C.A., R.A.,
A.S.A.A., F.R. (Econ.). S.,
10, Old Post Office Street,
Calcutta.

OFFICE OF THE
HIGH COMMISSIONER FOR INDIA
BANGALORE
27 SEP 1939
Diary No. 10,023
File No. 123/1/39

Sir,

Accountants - Appearance by, on behlf of assessees - Power of attorney.

In reply to your letter dated the 15th August 1939, I am directed to say that section 61(1) of the Indian Income-tax Act, 1922, prescribes that "any assessee who is entitled or required to attend before any Income-tax authority in connection with any proceeding under this Act.....may attend by a person authorised by him in writing in this behalf....." All that this means is that the assessee, if he wishes or if called upon to attend, may do so by deputy authorised in writing. If therefore the assessee desires to be represented by his Accountant in any matter in which he is called upon to attend or himself wishes to attend, the Accountant must have a written and stamped authorisation. No such

authorisation....

authorisation will however be necessary in cases where the accountants do not act for assessees but appear in their capacity of accountants or auditors who made up the accounts filed in the department.

I have the honour to be,

Sir,

Your most obedient servant,

T. S. Pillay.

First Secretary, Central Board of Revenue

Copy of correspondence forwarded to all Commissioner of Income-Tax, and Income-Tax Adviser to the Board.

By order, etc.

12/7/34

First Secretary, Central Board of Revenue.

Copy of a letter dated the 15th August, 1939, from D. Basu & Co., 10, Old Post Office Street, Calcutta, to the Secretary, Central Board of Revenue, Simla.

I bring to your notice that there is a custom with the Income Tax offices in Bengal to file letter of authority stamped with them. For professional people who are acting as the auditor of their client, it seems that letter of authority asking from these people is really superfluous. Perhaps you are aware that already re-presentations have made to you to withdraw this abnoxious practice.

I shall be much obliged if you kindly order in the same effect.

One point I would like to ask you that I do not find any reference whatsoever in the Income Tax Act. as amended in 1939, that the professional accountants, who are the auditors of a concern had represented to the income-tax authorities by the letter- to be duly stamped. If there would be any such provision, I shall be much pleased, if you kindly refer me the Section.

-of authority

S.N 62

R.Dis.No. F.31(Coll.II)-39
Judl.

From

The Commissioner of Income-tax,
Civil and Military Station, Bangalore.

Issue 29/IX

To

The Secretary,
Central Board of Revenue,
S i m l a .

Dated Bangalore, the 29th Sept. 1939.

Burma - Separation of - Dividends declared in 1936-37 - Refunds - Place of payment.

Sir,

S.N.2 c.p.4

I have the honour to refer to your letter C.No.43(6)-I.T./39 dated the 31st July 1939. Refunds of tax in respect of dividends are made only on production of the dividend warrants along with the claims for refunds and endorsements to the effect that refunds have been granted are invariably made on the warrants.

I have the honour to be,

Sir,

Your most obedient servant,

o/c 29.9

for COMMISSIONER OF INCOME-TAX.

28.9.39.

28.IX.39

S.N 63

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 29th September 1939.

29/9/39

R.Dis.No. F.31(Coll.II)-39 Enc.4
Judl.

A copy of the undermentioned papers is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information.

By order, etc.,

d/c 29.9

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

28.9.39 --- DSRao, 28/IX/39

1. Endorsement from the Central Board of Revenue, D.Dis.No.26(30)-I.T./39 dated the 14th September 1939, with enclosures.

2. Endorsement from the Central Board of Revenue, C.No.21(9)-I.T./39 dated the 9th September 1939, with enclosures.

F-4 24

S.N. (64)

Circular No.33 of 1939.
R.Dis.No.53(1)-I.T./39.
Central Board of Revenue.
Simla, the 28th August 1939.

...

Circular.

Assessment orders - Returns of Income - Copies of - Supply of, to the members of a Hindu Undivided Family.

...

Although a Hindu Undivided Family is treated as a single entity for the purposes of income-tax (see definition of "person" in section 2(9) of the Act), each individual member is liable to account for the tax payable by the family if so called upon, for under section 63, sub-section (2), any notice or requisition under the Act can be served on any adult male member of the family and not necessarily on the 'karta'. All the members have a joint interest in the Income-tax proceeding and they are entitled to know all about it. The mere fact that they are represented in the proceeding by the 'karta' or any other member makes no difference. That being so, to furnish copies of assessment orders passed in respect of a Hindu Undivided Family to a person who was a member of such family at the relevant time would not amount to a breach of the secrecy enjoined by section 54 of the Act. Similarly no disclosure is involved in furnishing copies of returns of income to any member of the family who asks

for

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
15 SEP 1939
Diary No. 9614.
File No.....

for the same. The instructions contained in paragraph 2(c) of Board's Circular No.19 of 1932 R.Dis.No.583-I.T./32 dated the 9th August 1932 should be considered as superseded to the extent stated above.

26 May

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.
The Appellate Assistant Commissioners.
The Income-tax Adviser to the Board.

SR.
31/8.

F.No.2/ Jomp 18/9/39

S.N.((65)

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE.
20 SEP 1939
Diary No. 9753.
File No.

Circular No.36 of 1939.

R.Dis.No.54(6)-I.T./ 39.

Central Board of Revenue.

Simla, the 1st September 1939.

M.N.S.U

No.31/39

CIRCULAR.

Insurance agents - Assessment of - Deduction of expenses.

It has been brought to the notice of the Board that there is no uniformity of practice in assessing the income of agents of life insurance companies, that in some places their income is assessed under section 7 as "salary" while in certain other places it is assessed under section 12 "other sources". The Board realises that it is some times really difficult to determine whether an assessee's income in such cases strictly comes under section 7 or section 12 especially if he happens to be an agent for two or three concerns. But the point of the complaint is that in spite of instructions in Circular No.2 of 1937 dated 8th April 1937 allowing a deduction from the income of the agents of life insurance companies, of all expenditure (not being in the nature of capital expenditure) which is incurred by them solely for the purpose of earning their commission, some Income-tax Officers still do not allow all such expenses in cases where the assessment is made under section 7. Whatever might have been the legal position in the past, section 7 of the Income-tax Act as now amended, clearly provides

for

for a deduction in respect of any sum which the assessee by the conditions of his employment is required to spend out of his remuneration wholly necessarily and exclusively in the performance of his duties. In future all expenses incurred by life insurance agents not being of a capital nature must be allowed including depreciation on motorcars, furniture etc., irrespective of the section under which the assessment is made.

Ivers

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

All Appellate Assistant Commissioners of Income-tax.

The Income-tax Adviser to the Board.

SR.
4/9.

S N 66

95

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE.

Bangalore, the 28th September 1939.

Issued 28/9/39 2 P.M. SSm 28/IX

R.Dis.No. F.31(Coll.II)-39/Judl. Enc. 10

A copy of the undermentioned papers is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and guidance.

By order, etc.,

S/C 289.

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

27.9.39

- - -

27.IX.39

Circulars from the Central Board of Revenue,

No.33 of 1939, dated the 28th August 1939,
No.36 of 1939, dated the 1st September 1939.

(With 4 spare copies)

NS.

F.Ay/ 6 / 11/5/39

S.V. (67)

Circular No. 31 of 1939.

R.Dis.No.57(1)-I.T./39.

CENTRAL BOARD OF REVENUE

N.N.W.

Simla, the 26th August 1939.

OFFICE OF THE
THE RESIDENT
IN MYSORE, BANGALORE.
15 SEP 1939
Diary No. 9609
File No. DD 31/39

CIRCULAR

Assessment - Property - Income from - Instructions regarding.

(1) Proper filling up of the property schedule. It has been found in a number of cases that schedule A in the old return forms (I.Ts. 8 and 11) was very badly filled in. In many cases the column for the annual letting value was filled up but not the column for the annual rent received. The result is that no proper check of the computation of the "bona fide annual value" is possible. Income-tax officers should, therefore, take particular care to bring the importance of both these columns to the notice of assessees. The new form of return prescribed for assessments for 1939-40 onwards incorporates, in Part IV, a page corresponding to the one which formed schedule A of the old return forms. The altered wordings in the two columns of the new Return form corresponding to the columns in the old forms for "annual letting value" and "amount of rent actually received for the property if let" are to be noted and the importance of properly filling up these two columns should be impressed upon the assessees.

(2) Computation of proper "annual value".

It ...

It has been found that in a number of cases the municipal value of a property is taken to be the annual letting value which often means considerable under-assessment. The expression "annual value" is defined in the Act as the sum for which a property might reasonably be expected to let from year to year. It should thus be based on the proper and reasonable rental (as opposed to any privilege or long-term-lease rental) rather than on a municipal assessment which may be very different from the reasonable rental.

(3) Method of computing vacancies where a property is let in tenements or where there is a mortgage or charge covering several properties not all of which are vacant. Under the amended sub-section (vii) of section 9 it is necessary to determine for each separate property or part of property the net annual value after deduction of the allowances referred to in sub-sections (i) to (vi). The Board has decided that in such cases an apportionment of the allowances common to more than one property should be made in proportion to the gross annual values of such properties or parts of such properties.

Some illustrative figures are annexed.

26/11/31

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax,
All Appellate Assistant Commissioners of Income-tax.
The Income-tax Adviser to the Central Board of Revenue.

These two properties are jointly mortgaged for Rs. 2½ lakhs @ 3% interest per annum.

Period of vacancy	Property A (Let out in 3 parts)			Property B (Let out in 4 parts)				Property C (Let out to one tenant wholly)	Total
	Part I	Part II	Part III	Part I	Part II	Part III	Part IV		
Period of vacancy	2 months	-	1 month	1½ months	-	-	3 months	4 months	
	(Ground rent for the entire property - Rs. 150)			(Land revenue for the entire property - Rs. 450/-)				(Insurance premia Rs. 300).	
Bonafide annual value	1200	1500	300	1200	2100	2700	3000 1500	6000	18000
Repairs	200	250	50	200	350	450	500	1000	3000
Insurance	-	-	-	-	-	-	-	300	300
Mortgage interest	-	-	-	600	1050	1350	1500 ✓	3000	7500
Ground rent	60	75	15	-	-	-	-	-	150
Land Revenue	-	-	-	60	105	135	150	-	450
Collection charges - (actual being more than 6% of the bonafide annual value of each part, the maximum is allowed)	72	90	18	72	126	162	180	360	1080
	332	415	83	932	1631	2097	2330	4660	12480
Net annual value before deduction of vacancy allowance.	868	1085	217	268	469	603	670	1340	5520
Vacancies *	145	-	18	34	-	-	168	447	812
Net income	723	1085	199	234	469	603	502	893	4708

* Computed as a proportion of the net annual value shown in the preceding line.

F.A.H 6

S.N (68)

J. pmp 18/9/39

M. N.S.U

1231/39

Circular No.37 of 1939.

R.Dis.No.58(1)-I.T./39.

CENTRAL BOARD OF REVENUE

Simla, the 1st September 1939

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE.
9613/15/9 20 SEP 1939
Diary No. 9754
File No.

CIRCULAR

Penalties in connection with assessments under section 23(4).

It will have been observed that in every case in which an assessment has been made under section 23(4), where reopening under section 27 is not allowable because the assessee failed to comply with the notice in question without reasonable cause, a penalty can be levied under section 28(1)(a) or (b). As the assessee has now the right to apply under section 27 and also to appeal under section 30 in every case in which a section 23(4) assessment has been made, it is very important to see that a failure which attracts assessment under section 23(4) should be dealt with properly, and the following instructions should be followed whether the default is the failure to make a return or the failure to comply with a notice under section 22(4) or section 23(2).

2. In all cases in which an assessment is made under section 23(4), with the exception of cases referred to below, a penalty should be imposed equal, if there has been failure without a reasonable cause to comply with a notice under section 22(2) or section 34, to half the tax payable and equal, where the default is failure to comply with a notice under section 22(4) or section 23(2) to half the tax which would have been avoided had the income returned been accepted as the correct income (subject in either case to a

minimum penalty of Rs.25/-). Cases in which the above standard penalty has been imposed need not be reported to the Income-tax Adviser but the formal approval of the Inspecting Assistant Commissioner under section 28(6) should be obtained.

3. Exceptions should be made in the following circumstances:-

(a) In any case in which the income does not exceed Rs.5000/- and in which the assessee is believed to be rather illiterate and to keep no reliable accounts, no penalty should be imposed if the income can be estimated with reasonable accuracy without the proper completion of a return and without accounts;

(b) In any case in which although the conditions under (a) are not satisfied, the Income-tax Officer is of opinion that there are special circumstances to warrant the imposition of a penalty lower than the standard fixed above, such a lower penalty should be imposed with the previous approval of the Inspecting Assistant Commissioner.

(c) In any case in which there are circumstances to warrant the imposition of a higher penalty, such higher penalty should, with the approval of the Inspecting Assistant Commissioner be imposed. This will apply inter alia to any case in which there is reason to believe that the assessee may have undisclosed resources or abnormal profit and has been obstructive or is deliberately courting assessment under section 23(4). Cases in which the income exceeds Rs. 10,000/- and there has been similar default in earlier years should be specially considered for such a higher penalty.

4. Cases falling within (a) and (b) in paragraph 3 above need not be reported to the Income-tax

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Please see S.N. 2 R31-40 (II)+ S.N. 1 R6-43.

Adviser, but a list should be kept of the cases in which the standard penalty has been departed from with a note of the reasons for departure. This list should be forwarded quarterly (on 1st October, 1st January, 1st April and 1st July) to the Income-tax Adviser through the usual channels.

A similar list of cases falling under (c) should be kept and forwarded to the Income-tax Adviser on the same dates, but where it is intended to impose a penalty exceeding the tax payable or the tax which would have been avoided had the income returned been accepted the case should be specifically reported to the Income-tax Adviser before the penalty proceedings are completed.

5. Where returns have not been called for in past years, and in all salary cases, no penalty should be imposed without first sending the assessee a reminder and informing him that failure to comply with the notice within a date to be fixed in the reminder will be followed by the imposition of a penalty. If the assessee does not respond to this either but submits a return before the date of the assessment, as contemplated in section 22(3), no penalty can be levied.

Detailed vide Circular No. 21 of 1943. R. 2 & 6-43

6. Ordinarily nothing less than Rs.25/- should be imposed as a penalty under section 28 and in cases in which the maximum penalty leviable is less than Rs.25/-, it is advisable to levy no penalty whatever. It should be noted that even if an assessee has committed more than one offence, such as not responding to a notice under section 22(2) and to a notice under section 22(4), only one penalty not exceeding one and a half times the tax is permissible under section 28; but such cases should be deemed to fall under exception (c)

mentioned in the paragraph 3 above.

7. No penalty can be levied unless the assessee has been heard by the Income-tax Officer or has been given a reasonable opportunity of being heard, as required by sub-section (3) of section 28. But it is not necessary to hold over the assessment order and the issue of the demand notice under section 29 till the penalty proceedings are completed after getting the approval of the Inspecting Assistant Commissioner and the Income-tax Adviser in case where the latter s approval is required. All that the section requires is that the Income-tax Officer should be satisfied in the course of any proceedings that the case attracts the provisions of that section. It would therefore be enough if before actually signing the assessment order and the demand notice, the Income-tax Officer issues a notice to show cause somewhat in the following terms:-

orders the issue of a notice

"I am satisfied that the assessee has without reasonable cause etc. ....., I hereby call upon him to show cause why a penalty not exceeding Rs._____ should not be imposed upon him under section 28."

8. When penalty proceedings are submitted to the Inspecting Assistant Commissioner for his approval under section 28(6), it is neither necessary in law nor desireable in practice for him to give a personal hearing to the assessee.

9. In certain provinces, prior to the amendment of the Income-tax Act, 1922, the view was taken that no assessment order was necessary in the case of an assessment under section 23(4). In view, however, of the right of appeal now given

S N 6 5

THE OFFICE OF THE HON'BLE THE RE.

Bangalore, the 28th Septem 39.

issued 28/9/39 O.K.

R.Dis.No. F.31(Coll.II)-39 Enc. 5 each.
Judl.

Issue 27/9

A copy of the undermentioned papers is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information.

By order, etc.,

O/C 27-9

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

26.9.39 - - -

26.9.39

Circulars from the Central Board of Revenue,

No.31 of 1939 dated the 26th August 1939,

No.37 of 1939 dated the 1st September 1939.

(With 4 spare copies.)

F 24/

S. N 70

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE.
27 SEP
Diary No. 10,020
File No. P.D. 31/39

R.Dis.No.40(1)-I.T./39.

CENTRAL BOARD OF REVENUE

Simla, the 12th September 1939.

From

T. S. Pillay, Esquire, M.A., B.L.,
First Secretary, Central Board of Revenue,

To

All Commissioners of Income-tax
(including the Commissioner of Income-tax,
(Central) Bombay).

Sir,

Fees and honoraria to officials and non-officials - Payment of, by Station Directors, All India Radio - Returns regarding.

* To C.I.T.Punjab
** " " Bombay

Your letter No. * 6643, dated the 16th March 1939.
** B.O. 405/38, dated the 23rd May 1939.

S.N.1 T.(12)-39

@ (copy enclosed) To C.I.T.(Central) Bombay only.

I am directed to invite a reference to paragraph 2 of Board's letter R.Dis. No. 409-I.T./36, dated the 13th July 1936, in which it was laid down that Station Directors of All India Radio would submit the return showing payments made by them to officials and non-officials giving broadcasting talks after every three months. It has been represented to the Board that the submission of these quarterly returns involves heavy clerical work in the offices of the Station Directors and that it would be more convenient if they are permitted to submit annual returns instead. It seems that this arrangement would be preferable as consolidated figures of payments would be available to the Income-tax Department every year. The Board has accordingly agreed that with effect from the current year the Station Directors should submit these returns annually so as to reach your office by the end of April each year. They will, however, be required to

communicate the payments made to artists, etc. who, to the best of their knowledge, are likely to leave British India during the financial year or shortly after its expiry, and have no present intention of returning to British India, when such payments are actually made.

2. In the case of residents of Indian States and other non-residents who come to British India to give performances in the All India Radio, the Station Directors will, at the time of payment, deduct tax at the maximum rate (cf. section 18(3A) of the Act) and furnish the necessary information to the Income-tax Officer concerned in the statment prescribed by rule 12-A of the Indian Income-tax Rules, 1922.

3. Necessary instructions in the matter are being issued to the Station Directors.

I have the honour to be,

Sir,

Your most obedient servant,

T. S. Pillay,

14/7/39

First Secretary, Central Board of Revenue.

Copy forwarded to the Department of Communications for information and necessary action. With reference to the concluding sentence of paragraph 1 above, it is requested that, if there is no objection, the Station Directors may be instructed that in cases of doubt they should, before payment, ask the payees to state whether they are likely to leave British India during the current financial year, or shortly after its expiry and, if so, whether they have any intention of returning to British India

By order, etc.

T. S. Pillay,

First Secretary, Central Board of Revenue.

K.C.S.
13/9.

F A W

S.N 71

(187)

R.Dis.No.57(1)-I.T./39.

CENTRAL BOARD OF REVENUE.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
27 SEP 1939
Diary No. 10,022
File No. R.D. 31/39

Simla, the 13th September 1939.

CORRIGENDUM.

Assessment - Property - Income from - Instructions regarding.

S.N.67 (2)

Board's Circular No.31 of 1939 (R.Dis.No.57(1)-I.T./39, dated the 26th August 1939.)

In the heading to the statement containing illustrative figures appended to Board's Circular No.31 of 1939, the words "Period of vacancy" should be brought in line with the figures and words "2 months", "1 month" etc. in the second horizontal column thereof.

18.9.39.
First Secretary, Central Board of Revenue.

All Commissioners of Income-tax.
All Appellate Assistant Commissioners of Income-tax.
The Income-tax Adviser to the Board.

J.G.M.

S.N. 72

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,
Bangalore, the 4th October 1929.

Issued 4/10/39 21x Dft.

R.Dis.No. F.31(Coll.II)-39 Judl.

A copy of the undermentioned paper is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information, with reference to endorsement from this Residency No.1012-36/R.O.I, dated the 31st July 1936.

S.N.2
F.1012-36

By order, etc.,

6/c 2.10.

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

- - -

S.N.70
P.U.C.

Letter from the Central Board of Revenue, R.Dis.No. 40(1)-I.T./39 dated the 12th September 1939.

30.9.39

NS 30.IX.39

S.N.73

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,
Bangalore, the 4th October 1939.

Issue 2/x
Issued 4/10/39 DK.

R.Dis.No. F.31(Coll.II)-39/Judl.

A copy of the undermentioned paper is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information, in continuation

S.N.69 of endorsement from this Residency R.Dis.No.F.31(Coll.II)-39/Judl., dated the 28th September 1939.

By order, etc.,

S/c 2/10/39.

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

- - -

S.N.71
P.U.C.

Corrigendum from the Central Board of Revenue, R.Dis.No.57(1)-I.T./39 dated the 13th September 1939.

W 30.9.39.

DSRa 30.ix.39

S. N. 74

C.No.14 (9)(ii)-I.T./39.

Government of India.

Finance Department (Central Revenues).

Simla, the 29th August 1939.

...

From

T.S. Pillay, Esquire, M.A., B.L.,

Deputy Secretary to the Government of India,

To

All Commissioners of Income-tax.

Sir,

Income-tax and super-tax receipts - Classification of - Heads of Accounts - Minor heads and sub-heads.

...

I am directed to invite a reference to the letter of the Finance Department (Central Revenues) R.Dis.No.474-I.T./37, dated the 18th February 1938 on the subject indicated above. In paragraph 2 thereof it is stated that deduction of super-tax at source from dividends or from interest on securities should be shown under the sub-head "Super-tax- (ii) other collections". In this connection, I am to say that super-tax is deductible on dividends only when such dividends are paid to non-residents. If any such non-resident is a company within the meaning of section 2(6) of the Indian Income-tax Act- e.g. a company incorporated in the United Kingdom, the super-tax deductible will...

OFFICE OF THE
H. B.E THE RESIDENT
IN MYSORE, BANGALORE.
15 SEP 1939
Diary No. 9627
File No. DA 217/39

will not form part of the divisible pool. There is no provision for deduction of super-tax from interest on securities. Super-tax is, however, deductible from interest or from other payments (not being interest on securities) where the payee is a non-resident. If, as in the case of dividends, the non-resident payee is a company within the meaning of section 2(6) of the Indian Income-tax Act, the super-tax deductible will not form part of the pool. I am accordingly to request that in both these cases the amount of super-tax should be shown under "III-Corporation tax" and not under "Super-tax-(ii) other collections". If, however, the non-resident payee is not a"company," deductions of super-tax at source from dividends or from interest or other payments (not being interest on securities) should continue to be shown under "Super-tax-(ii)-Other collections".

2. Under subsections (2) and (2B) of section 18 of the Indian Income-tax Act as amended super-tax is required to be deducted at source. Consequently all deductions on account of super-tax from the salaries of the Central Government servants, including those at headquarters of the Government of India should now be accounted for under the sub-head "Super-tax in respect of Central (Federal) emoluments" and

To C.I.T.
Punjab only.

and the sub-head "Advance payments of super-tax in respect of Central (Federal) emoluments" would no longer be necessary. The Government of India have therefore decided that the latter sub-head together with the corresponding sub-head under "Deduct-Refunds" should be abolished.

I have the honour to be,

Sir,

Your most obedient servant,

26 May

Deputy Secretary to the Government of India.

Copy forwarded to the Finance Department, the Auditor General, the Accountant General, Central Revenues and the Accountant General, Punjab.

* paragraph 1 only.

Copy also forwarded to all Provincial Accountants General (except Punjab) and the Comptroller, Assam.

SR.
2/9.

S.N. 75

(1)2

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 6th Oct. ~~October~~ 1939.

Issue 5/x issued 6/10/39 BH

R.Dis.No. F.31(Coll.II)-39/Judl.

A copy of the undermentioned paper is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and guidance.

By order, etc.,

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

4.10.39.

4.x.39

S.N.74
P.U.C.

Letter from the Government of India, Finance Department, (Central Revenues), C.No.14(9)(ii)-I.T./39 dated the 29th August 1939.

(Sp.copy kept below).

NS

S N-76

No.I.T.Gl;186.

Office of the Inspecting Assistant Commissioner of Income-tax, C & M.Station, Bangalore, Dated 2nd October 1939.

From

The Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore.

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE.
Diary No. 10,245
File No.

To

The Secretary to the Hon'ble the Resident in Mysore, and Commissioner of Income-tax, Bangalore.

Sir,

Refund of Income-tax by Money Orders- revised procedure - Date of introduction -

I have the honour to state that the procedure described in your Memorandum No.R.Dis.No.F.31-39/Judl dated 16th August 1939, will be introduced with effect from the 1st October 1939.

S.N-123 R.D.F.31-39

I have the honour to be, Sir,

Your most obedient servant,

For Inspecting Assistant Commr. of Income-tax.

RSR.

DESPATCHED 2 OCT. 1939

F & H

S.N 77

C. No.35(3)-I.T./39.

GOVERNMENT OF INDIA.

FINANCE DEPARTMENT (CENTRAL REVENUES)

Simla, the 15th September 1939

From

T. S. Pillay, Esquire, M.A., B.L.,

Deputy Secretary to the Government of India,

To

All Provincial Governments and Administrations.

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE.
Diary No. 10,258.
File No.

Sir,

Income-tax - Deduction of, from salary, etc. - Memorandum of instructions for -.

S.N 23

In continuation of my letter C.No.35(3)-I.T./39, dated the 15th August 1939, I am directed to say that a question has been raised whether the average rate of income-tax worked out at the beginning of the year should be revised and adjustments of income-tax made if a person receives an honorarium or enhanced pay for some period during the year on account of officiating promotion or reduced pay due to reversion or leave on half average pay etc. and whether such revisions of the average rate of income-tax instead of being effected on each and every occasion of a change in emoluments may not be carried out at fixed intervals, say half yearly or quarterly. The Government of India have no objection to disbursing officers making adjustments in respect of deductions at source at periodical intervals. In fact,

the.....

the proviso to section 18(2) of the Indian Income-tax Act, 1922, actually gives them the power to do so. Such adjustments should not however come into the account of two years; that is, adjustments should not be made from payments on or after the 1st April of any year in respect of any excessive or deficient deduction made prior to that date. In this connection I am to enclose an extract of letter No.T.1065-Admn.I/19-39, dated the 5th September 1939, from the Auditor General of India to the Accounts Officers and to request that the procedure stated therein may be brought to the notice of all disbursing officers for their information and guidance.

I have the honour to be,

Sir,

Your most obedient servant,

A. Murray 9.9.39.

Deputy Secretary to the Government of India.

Copy forwarded to all Departments of the Government of India (including Financial Adviser, Military Finance and Reforms Office), the Financial Commissioner, Railways, the Crown Finance Officer, the Finance Officer, Communications, the Private Secretary to His Excellency the Viceroy, the Military Secretary to His Excellency the Viceroy, the Secretary to Governor General, Public, the Secretary to His Excellency the Crown Representative, the Auditor General, the Director General, Posts and Telegraphs, the Master Security Printing, India,

the.....

the Mint Masters, Calcutta and Bombay, all Accountants-General, (including the Military Accountant General), the Comptrollers, Assam, North-West Frontier Province, Sind and Orissa, the Audit Officer, Indian Stores Department, the Deputy Accountants General, Posts and Telegraphs, Delhi, Calcutta, Madras, Nagpur, the Accounting Officer, Telegraph Check Office, Calcutta, the Director of Audit, Defence Services, the Director of Railway Audit and the Controller of Railway Accounts.

'including Accountant General, Posts and Telegraphs.

Copy also forwarded to all Heads of Departments (including The Commissioners of Income-Tax, and The Income-Tax Adviser) subordinate to the Board.

By order, etc.,

K B Lal 4.9.34

for Deputy Secretary to the Government of India.

B.A.

Copy of letter T.1065-Admn,I/19-39, from the Auditor General of India, to the Accounts Officers, dated the 5th September, 1939.

Instructions for the deduction of income-tax and super-tax commencing from the Ist April, 1939 -.

* * —— * *

I have the honour to state that the Auditor General has decided with the concurrence of the Central Board of Revenue that adjustments in respect of deductions at source should be made at half-yearly intervals only. But while this may be adopted as the normal procedure, it should be understood that there would be nothing to preclude earlier or more frequent adjustments in individual cases at the request of a Government servant or even at the discretion of the officer responsible for making deductions at source where such a course is considered advisable in consequence of an appreciable change in income.

2. The months selected for the periodical half-yearly adjustments would normally be September and March, but if it is likely to be difficult in practice to examine the cases of all assessees in a single month, the examination may be spread over two or more months at the discretion of the Accountant General.

The reply to this communication should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

R. Dis. No. F. 31(Coll.II)-39 Judl.

FROM

THE SECRETARY TO THE HON'BLE THE RESIDENT IN MYSORE.
and Commissioner of Income-tax.

Issue 9/x Issued. 10/10/39 DR

To

The Accountant General,

M a d r a s.

Dated Bangalore, the 10th October *1939*.

Memorandum of instructions for refund of income-tax by Money Orders.

S.N.31
R.D.F.31-39

Your letter No.T.M.3-1-83/39-40 dated 18th April 1939.

SIR,

I am directed to say that the procedure described in

S.N.123
R.D.F.31-39

my memorandum No.R.Dis.F.31-39/Judl., dated the 16th August 1939 has been introduced with effect from the 1st October 1939.

I have the honour to be,
Sir,
Your most obedient servant,

Sd/- A.J.Courtney,

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

- - -

Copy forwarded to the Officer in charge of the Hon'ble the Resident's Treasury, Bangalore, for information.

o/c 9.10

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

6.10.39

7.x.39

S N 79

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 10th October 1939.

Issued 10/10/39 DH

Issue 9/x

R.Dis.No. F.31(Coll.II)-39/Judl. Enc. 3.

A copy of the undermentioned paper is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and guidance, in continuation of endorsement from this Residency R.Dis.No.F.31(Coll.II)-39/Judl., dated the 15th September 1939.

S.N.27
c.p.34
'Q'

By order, etc.,

9.10

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

6.10.39.

- - -

7.x.39

S.N.77
P.U.C
(Sp.copy below.)

Endorsement from the Government of India, Finance Department (Central Revenues), C.No.35(3)-I.T./39 dated the 15th September 1939, with enclosures.

F R L J. 28/9/39

S M 80

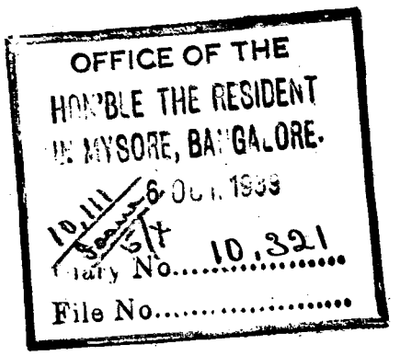
(20

D.O. D.Dis. No. 28(46)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 26th September, 1939.

N.N.S.U
08185/39



My dear Clarke,

Assessment form - I.T. 30- Classification of net demand - Rounding off to the nearest rupee- Ready reckoner for computing tax -.

Your D.O. to Mr. Sheehy No. 686/39, dated the 31st July 1939.

Your suggestion (a) is approved. As regards suggestion (b) no ready reckoner will be necessary if the new statistical system contemplated by the Board is introduced from Ist April, 1940 as the calculations on all requisite component items will be made in the Board's office.

Yours sincerely,

T. S. Pillay.

E.W. Clarke Esquire,
Commissioner of Income-tax,
Madras.

Copy, with a copy of the letter replied to, forwarded to all other Commissioners of Income-tax, and the Income-tax Adviser to the Board, for information.

By order, etc.,

28.9.39

First Secretary, Central Board of Revenue.

B.A.

Copy of d.o. letter No. 686/39, dated the 31st July, 1939, from The Commissioner of Income-tax, Madras, to The Member, Central Board of Revenue, Simla.

S.N.118
R.D.31-39 (1)

Assessment Form - I.T.30 - Classification of net demand - Board's Circular No.15 of 1939 (C.No.28-(36)-I.T./39 dated the 15th June 1939).

The Classification of the net demand in the cage at the back of Form I.T.30 involves the computation of tax in respect of each separate item with reference to the average rate of Income-tax which is worked out to two places of decimals. May I suggest (a) that in the classification of the net demand on the back of the form the amount of tax against each item be rounded off to the nearest rupee, the odd annas, if any, being included in the largest item, and (b) that a ready reckoner be prepared so as to simplify the work of the Income-tax clerk who has to make these entries in form? Suggestion (a) will help to reduce the work in the totalling of figures in the register of classification of demand, and suggestion (b) will save a good deal of the time of the Incometax clerk who will have to compute the amount of tax against each item. I believe it will not be very difficult to have a ready reckoner prepared for the purpose.

F.A.V

S.N.81

D. Dis. No. 50(14)-I.T./39.

CENTRAL BOARD OF REVENUE

Simla, the 22nd September, 1939.

From

T. S. Pillay, Esquire, M.A., B.L.,

First Secretary, Central Board of Revenue,

To

The Commissioner of Income-tax,

Madras.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
Diary No. 10322
File No.

Sir,

Appellate Assistant Commissioners - Orders in appeal - Revision under section 33 - Necessity for obtaining Board's permission -.

.....

With reference to the concluding paragraph of your letter No. 452/N/39/177, dated the 4th September 1939, I am directed to say that it is not the intention that the permission of the Board should be obtained in every case in which the Commissioner considers it desirable to revise the order passed by an Appellate Assistant Commissioner. Such cases should however be reported to the Board in accordance with paragraph 4 of Circular No. 3 of 1939 (C.No.31(7)-I.T./39, dated the 3rd April 1939).

2. In this connection I am to invite a reference to paragraph 4 of Circular No. 19 of 1939 (R.Dis.No. 34(22)-I.T./39, dated the 29th June 1939) and to say that the Board's advice should be obtained before any case of the type referred to in this paragraph is revised under section 33 of the Act.

I have the honour to be,
Sir,
Your most obedient servant,

25.9.39.

First Secretary, Central Board of Revenue.

Extract from letter No. 452/N/39/177, dated the 4th September 1939 from the Commissioner of Income-tax, Madras.

* * * *

In this connection I have the honour to solicit instructions whether it is the intention of the Board that its permission should be obtainex in every case in which the Commissioner thinks that the Appellate Assistant Commissioner's order ought to be revised to the prejudice of the assessee.

S N 82

(126

C.No.40(6)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 25th September 1939.

....

Memorandum of Instructions regarding Statistics and Statistical Registers for 1939-40.

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE.
Diary No. 10,386
File No.

The Board has under consideration the question of a complete overhaul of the entire statistical system, but the new system will not take effect earlier than for the year 1940-41. For the purpose of the year 1939-40 some changes in the existing statistical forms are necessary to conform with the amendments in the Income-tax Act, 1922.

The alterations proposed are with reference to the forms of annual returns of the Bombay Presidency for 1937-38 which should be adopted.

The following changes in the existing forms should be made by hand:-

I.T.24. Column 3 should be split up into four sub-columns

for (1) Corporation tax,
(2) Super-tax on Federal Emoluments,
(3) All other super-tax, and
(4) Total.

All the entries in the first three sub-columns should relate separately to the three descriptions of super-tax mentioned above.

Item 1-A - Demand on account of surcharge, should be deleted.

In the classification against serial No. 3 the words "Miscellaneous including" should be omitted.

The....

The following Serial No. Should be inserted:-

"10-Miscellaneous"

I.T.25. Columns 3 and 4 should not be filled up. Columns 9 and 10 are no longer necessary, but instead of the heading "To partners of Registered Firms", should be substituted "Interest or other sums received under deduction of tax". This is necessary in view of the provisions of section 18, for compulsory deduction of tax from payment of interest etc. to non-residents. As regards column 2 "Grade of income" the existing grades should be reduced to the following:-

1.	Below		2,000
2.	2,000	to	4,999
3.	5,000	to	9,999
4.	10,000	to	14,999
5.	15,000	to	19,999
6.	20,000	to	24,999
7.	25,000	to	29,999
8.	30,000	to	39,999
9.	40,000	to	49,999
10.	50,000	to	99,999
11.	100,000	and upwards.	

The best course for this purpose would be to paste a typed slip over the existing columns (1) and (2) showing the revised grades shown above.

The following foot-note should be inserted:-

Refunds shown in this Return should not be only cash refunds but they should include set off refunds.

I.T. 23. . .

I.T. 26. As regards column (2) "Grade of Income" the same remarks as have been made and the same procedure as has been suggested in connection with I.T. 25 apply to this form also.

The only other changes which should be made by hand are:-

(a) Heading of columns 6 and 7 - to substitute the words "Central Government" for "Government of India."

(b) Heading of columns 8 and 9 - to substitute the words "Provincial Government" for "Local Government".

(c) Heading of columns 20 & 21 - to substitute the word "Persons" for "Individuals".

(d) Column 28 - This should record the amount of marginal relief in respect of section 34 cases.

The item "Add Surcharge (gross collections) from - (a) Companies (b) Other assessees" at the end of the return should be deleted, and a new item "Add Local authorities" should be inserted.

I.T. 27. Regarding column 2 the same remarks and procedure mentioned in connection with I.Ts. 25 and 26 should apply to this form also, the grades being as follows:-

1. up to 25,000
2. 25,001 to 35,000
3. 35,001 to 55,000

4. 55,001 to 125,000
5. 125,001 to 200,000
6. 200,001 to 350,000
7. 350,001 to 500,000
8. over 500,000

The other corrections which may be made by hand are:-

(a) To substitute the word "Persons" for "Individuals" in the heading of columns 6, 7 and 8;

(b) To split up the figures to be shown in columns 5 and 20 into super-tax on Federal Emoluments and All other super-tax. In these columns should be shown the amounts of super-tax both deducted at source and collected on assessment.

(c) The column for 'Refunds' should be split up into -

(1) Companies.
(2) Federal emoluments.
(3) Others.

The item "Add Surcharge (gross collections) from (a) Companies (b) Other assessees" at the end of the form should be deleted and a new item "Add - Local authorities" should be inserted.

I.T.29. Columns 17, 18 and 19 should be split up with sub-numbers for accommodating entries in respect of penalties under Sections 44E and 44F.

I.T.43. In conformity with the changes suggested in forms I.T. 25 and I.T. 30 the following changes....

changes are necessary:

(a) In the heading to columns 7 to 12, the words "Government of India" should be changed to "Central Government",

(b) In the heading to columns 19 to 24, for the words "Registered firms" should be substituted the words "Interest or other sums received under deduction of tax",

(c) No entries should be made in the column for "Rate of refund in pies per rupee",

(d) Each of the groups of columns 1 to 6, 7 to 12, 13 to 18 and 19 to 24 should be treated as one column, or in other words, all entries of the amounts of refunds should be :-

in column 1 under "Dividends on Companies";

in column 7 under "Interest on Securities of Central Government";

in column 13 under "Interest or other securities;"and

in column 19 under "Interest or other sums received under deduction of tax".

The following foot-note should be inserted:-

Refunds shown in this Return should not be only cash refunds but should include set off refunds.

I.T. 45. In conformity with the amendments suggested for I.T. 26 changes should be made in this form also.

I.T.79. In conformity with the amendments suggested for I.T. 27 changes should be made in this form also.

I.T. 92.....

I.T. 92 & I.T.92A — The following additional columns should be inserted:-

"Income-tax on Federal emoluments" after column "Income-tax paid by Companies" and "Super-tax on Federal emoluments" after column "Company super-tax".

I.T. 99. — In column 7, the word "Individuals" should be changed to "Persons".

The grades of income shown in column 1, should be reduced to the grades shown for I.T. 25 and a typed slip should be pasted for this purpose.

After column 3
The following new column should be inserted:-

"3-A - Local authorities".

Grade "Unclassified" should be omitted.

It may be mentioned in this connection that so far as Register of Demand and Collections (I.T.41) and Register of Daily Collections (I.T.44) are concerned no change is necessary for the current year.

As regards forms I.T. 23 and I.T. 42 several amendments are necessary. A copy of the form I.T. 23 as revised is enclosed. The Commissioners should make their own arrangements for cyclostyling this form. Steps are being taken to have form I.T. 42 printed.

27.9.39.

First Secretary, Central Board of Revenue.

All Commissioners of Income-tax.
The Income-tax Adviser to the Board.

RETURN NO: I

CLASSIFICATION OF THE INCOME TAX DEMAND IN

THE DISTRICT / PROVINCE IN THE YEAR

ENDING 31st MARCH, 194 .

Serial No: 1	Classification 2	Assessment for 19 -4 . 3
	(A) Income accruing, arising or received in British India -	
	Salaries - Paid by or due from (a) Central Government	
	(b) Provincial Government	
	(c) Local authorities ...	
	(d) Companies, other public bodies and associations ...	
	(e) Private employers ..	
2.	Interest on Securities of Central Government or of a Provincial Government ..	
	Other interest	
3.	Income from property	
4.	Profits and gains of business, profession or vocation.	
5.	Income from other sources -	
	(a) Dividend	
	(b) Interest or other sum received under deduction of tax	
	(c) Others	
	(B) Income arising abroad -	
6.	Assessed on remittance basis	
7.	Assessed on arising basis, being -	
	(a) Profits and gains of business, profession or vocation	
	(b) Others	
8.	Total of items 1 to 7	

9. Amount to be deducted on account of Section 7(1), 15, 58F and 58R .....

10. Resultant demand .....

11. *Arrears .....

12. Penalties under section (a) 25(2) .....
(b) 28. .....
(c) 44E .....
(d) 44F. .....
(e) 46(1) .....
(f) Other penalties and fines .....

---

13. Total of items 10 to 12.

---

14. Refund or rebate of tax on salaries paid by (a) Central Government
(b) On Interest on Securities.....
(c) On Dividends.....
(d) To companies .....
~~(e)~~ Other description of refunds.
(e) ~~refunds~~ under section 48
(f) Under Section 49.....
(g) Under arrangement with
~~(h)~~ Indian States .....
(h) ~~(i)~~ Under arrangement with Ceylon,
~~(j)~~ Burma and Aden Governments
(i) ~~(k)~~ Other Refunds

---

15. Total Refunds .....

---

16. Net demand (item 13 minus item 15) .....

17. Deduct - Arrears outstanding on 31st March of the year to which the statement relates ....

18. Add - Excess collections and advance payments ...

19. Add - Unpaid refunds of the year under review ...

20. Deduct - Paid refunds out of unpaid refunds for previous year .....

21. Net collections .....

22. Miscellaneous .....

---

* If this figure differs from that in the relative item in the return of the preceding year, corresponding to item 17 ~~16~~ of the present Return, an explanation should be given how much has been written off as irrecoverable and how much has been reduced in appeal or revision.

+ So far as reductions of tax on appeal are concerned this item only includes refunds on account of the reduction on appeal of the assessments made in previous years while other reductions on appeal are shown by a corresponding reduction of the demand. This will also include refunds under section 35. If an arrear demand is collected and refunded the refund should be shown as a reduction of demand and not here.

Composition fees under section 53(2) already included in the appropriate sub-heads to which they pertain ..... Rs.

S.N. 83

(135

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 11th October 1939.

Issued 10/X
11/10/39

R.Dis.No. F.31(Coll.II)-39 2 Encs. 4 Sheets.
Judl.

A copy of the undermentioned papers is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information.

By order, etc.,

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

9.10.39

9.x.39

S.N.80 P.U.C. 1. Endorsement from the Central Board of Revenue, D.Dis.No.28(46)-I.T./39 dated the 26th September 1939, with enclosures.

S.N.81 P.U.C. 2. Endorsement Letter from the Central Board of Revenue, D.Dis.No. 50(14)-I.T/39 dated the 22nd September 1939 with enclosures

(Spare copies kept below.)

S. N. 84

136

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 11th October 1939.

Issue
10/x

Issued
11/10/39

R.Dis.No. F.31(Coll.II)-39/Judl. Encl. 5 sheets.

A copy of the undermentioned paper is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for necessary action.

By order, etc.,

10-10

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

9.10.39

9.x.39

S.N.82
P.U.C.
(sp.copy below.)

Memorandum from the Central Board of Revenue, C.No.40(6)-I.T./39 dated the 25th September 1939, with enclosure.

FA 24

S. N. 85

137

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
Diary No. 10,319
File No.

N.N.S.U
C.P. 217/39

C. No. 35(3)-I.T./39.

GOVERNMENT OF INDIA.

FINANCE DEPARTMENT (CENTRAL REVENUES).

Simla, the 15th September, 1939.

From

T. S. Pillay, Esquire, M.A., B.L.,
Deputy Secretary to the Government of India,

To

All Chambers of Commerce and
Trade Associations.

Sir,

Income-tax - Deduction of, from salary, etc., - Memorandum of instructions for -

S.N. 23 C.P. 29

In continuation of my letter C.No.35(3)-I.T./39, dated the 15th August 1939, I am directed to say that a question has been raised whether the average rate of income-tax worked out at the beginning of the year should be revised and adjustments of income-tax made if a person receives an honorarium or enhanced pay for some period during the year on account of officiating promotion or reduced pay due to reversion or leave on half average pay etc. and whether such revisions of the average rate of income-tax instead of being effected on each and every occasion of a change in emoluments may not be carried out at fixed intervals, say half yearly or quarterly. The Government of India have no objection to disbursing officers making adjustments in respect of deductions at source at periodical intervals. In fact, the proviso to section 18(2) of

the.....

138

the Indian Income-tax Act, 1922, actually gives them the power to do so. Such adjustments should not however come into the account of two years; that is, adjustments should not be made from payments on or after the Ist April of any year in respect of any excessive or deficient deduction made prior to that date. Normally, adjustments in respect of deduction at source may be made at half-yearly intervals but there is nothing to preclude earlier or more frequent adjustments in individual cases at the request of the employee or even at the discretion of the person responsible for making deduction at source where such a course is considered advisable in consequence of an appreciable change in income.

2. The months selected for half-yearly adjustments would normally be September and March but if it is likely to be difficult in practice to examine the cases of all assessees in a single month, the examination may be spread over two or more months at the discretion of the disburing officer.

I have the honour to be,

Sir,

Your most obedient servant,

20 9 39

Deputy Secretary to the Government of India.

Copy forwarded to all Departments of the Government of India (including Financial Adviser, Military Finance and Reforms Office,), the Financial Commissioner, Railways, the Crown Finance Officer....

Officer, the Finance Officer, Communications, the Private Secretary to His Excellency the Viceroy, the Military Secretary to His Excellency the Viceroy, the Secretary to Governor General, Public, the Secretary to His Excellency the Crown Representative, the Auditor General, the Director General, Posts and Telegraphs, the Master Security Printing, India, the Mint Masters, Calcutta and Bombay, all Accountants-General, (including the Military Accountant General), the Comptrollers, Assam, North-West Frontier Province, Sind and Orissa, the Audit Officer, Indian Stores Department, the Deputy Accountant's General, Posts and Telegraphs, Delhi, Calcutta, Madras, Nagpur, the Accounting Officer, Telegraph Check Office, Calcutta, the Director of Audit, Defence Services, the Director of Railway Audit and the Controller of Railway Accounts.

*including Accountant General, Posts and Telegraphs,

Copy also forwarded to all Heads of Departments (including the Commissioners of Income-tax and Income-tax Adviser) subordinate to the Board.

By order, etc.,

K. B. Das 20/7/34

for Deputy Secretary to the Government of India.

B.A.

S.N. 86

140

C.No.21(5)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 23rd September 1939.

From

T. S. Pillay, Esquire, M.A., B.L.,
First Secretary, Central Board of Revenue.

To

The Commissioner of Income-tax,
Bengal.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
7 OCT 1939
Diary No. 10,387
File No.....

Sir,

Indian Income-tax Act, 1922 - Amended section 61 - Representation of assessees - Attendance by authorised representatives.

With reference to your letter No, 9316 4P/40 C.T. dated the 4th August 1939 on the subject noted above, I am directed to say that the Board agrees that paragraph 3 of its letter C.No.21 (5)-I.T./39, dated the 3rd July 1939, referred to by you, effends against the ruling of the Allahabad High Court in Sm. Rajmani Devi's case, which was accepted by the Government of India, vide Board's d.o. C.No.494- I.T./37, dated the 23rd August 1937. The instructions in paragraph 3 of the letter referred to above should therefore be considered as cancelled and the following substituted:-

3. Where it is desirable to pin down either the assessee or his authorised representatives for definite statements or explanations, and neither the assessee nor his authorised representative appears in response to the notice under Section 23(2), a summons should be issued under Section 37.

I have the honour to be,
Sir,
Your most obedient servant,

T. S. Pillay,
First Secretary, Central Board of Revenue.

Copy--------

(141)

Copy with a copy of the letter under reply forwarded to :

The other Commissioners of Income-tax (including the Commissioner of Income-tax (Central) Bombay).

All Appellate Assistant Commissioners.

The Income-tax Adviser to the Central Board of Revenue.

By order, etc.,

26.9.39.

First Secretary, Central Board of Revenue.

J.G.M.
25/9.

Copy of letter No. 9316 C.T., dated the 4th August, 1939, from The Commissioner of Income-tax, Bengal, to The Secretary, Central Board of Revenue, Simla.

4P/40

Procedure - Section 61 of the Income-tax Act - Attendance by authorised representative.

Board's letter C.No.21(5)-I.T./39, dated the 3rd July, 1939.

I have the honour to refer to paragraph 3 of the letter quoted above and to say that the instructions lay down that the Income-tax Officer should require the assessee to produce accounts and evidence and not require him to cause them to be produced. In this connection I beg to point out that so far as the production of accounts and evidence is concerned, the instructions seem to offend against the decision of the Allahabad High Court in the case of Sm.Rajmani Devi versus the Commissioner of Income-tax, Central and United Provinces (5 I.T.R.631) in which case it was decided that where a notice under section 23(2) is issued, the assessee should be given the option of complying with any of the alternatives mentioned in the section. It is true that this decision was founded on Section 23(2) as it stood prior to the amending Act, but as this Act has effected no material change as far as the exercise of the assessee's option is concerned, it would appear that what was said in Rajmani Devi's case still holds good.

In the circumstances, I would request you to be so good as to let me know whether the instructions given in paragraph 3 of the Board's letter under reference so far as these instructions relate to the production of accounts should be followed.

S N S T

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No.F.31(18)-E/39.

A copy of the undermentioned papers is forwarded to the

Hon'ble the Resident at Hyderabad,
" " in Mysore,
" " for Central India,
" " Rajputana,
" " the States of Western India,
" " Punjab States,
Resident for Baroda and the Gujarat States,
" in Kashmir,
" at Gwalior and for the States of Rampur and Benares,
" for the Madras States,
" Kolhapur and the Deccan States,
" the Eastern States,
Military Adviser-in-Chief, Indian States Forces,

for information, in continuation of endorsement from the Political Department No.F.31(18)-E/39, dated the 15th September 1939.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
10,023
Diary No. 10,202.
File No. P.31/39

By order, etc.,

for Secretary to His Excellency
the Crown Representative.

Political Department,
Simla.
The 4th October 1939.

Circular No. 26 of 1939 C.No.35(3)-I.T/39 dated the 19th August 1939 from the Central Board of Revenue to Accounts and Audit Officers.

Circular letter C.No.35(3)-I.T/39 dated the 29th August 1939 from the Central Board of Revenue.

(With 8 S.Cs.)

APJ.

Circular No.26 of 1939.

C.No.35(3)-I.T./39.

Central Board of Revenue.

Simla, the 19th August 1939.

.....

CIRCULAR.

Liability to tax - Study leave allowance - granted to officers of Government.

.....

The study allowance granted to Government officers under rule 7 of the Study Leave Rules (Appendix 9 to the Posts and Telegraphs Compilation of the Fundamental Rules and Supplementary Rules, Volume II), not paid in British India, does not come within the mischief of Explanation 2 to section 4(1) of the Indian Income-tax Act, 1922, and is not therefore taxable. As regards officers of the Indian Medical Service. the regulations governing the grant of leave for purposes of study are contained in Appendix 6-A of the Regulations for the Medical Services of the Army in India. In their case, the study allowance is similar to the reward for passing a non-compulsory language examination and as such is exempt under section 4(3) (vii) of the Act.

2. The salary as distinct from the study allowance payable to an officer while on study leave is, however, earned in British India and is taxable.

Sd/- T.S.Pillay,

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax
(including Commissioner of Income-tax (Central), Bombay).
All Appellate Assistant Commissioners of income-tax and Income-tax Adviser to the Board.

Copy....

145)

Copy forwarded to :-

1. The Financial Adviser,
Military Finance.

2. The Financial Commissioner,
Railways.

3. The Crown Finance Officer.

4. The Finance Officer,
Communications.

5. The Auditor General.

6. All Accountants-General
(including the Military Accountant
General and the Accountant General,
Posts and Telegraphs.)

7. The Comptrollers, Assam, North-West
Frontier Province, Sind and Orissa.

8. The Audit Officer,
Indian Stores Department.

9. The Deputy Accountants General,
Posts and Telegraphs, Delhi,
Calcutta, Madras and Nagpur.

10. The Accounting Officer,
Telegraph Check Office,
Calcutta.

11. The Director of Audit
Defence Services.

12. The Director of Railway Audit.

13. The Controller of Railway Accounts.

By order, etc.,

Sd/- T.S.Pillay,

First Secretary, Central Board of Revenue.

PJ.

46

C.No.35(3)-I.T./39.

GOVERNMENT OF INDIA

FINANCE DEPARTMENT (CENTRAL REVENUES)

Simla, the 29th August 1939.

From

T.S.Pillay, Esquire, M.A., B.L.,

Deputy Secretary to the Government of India,

To

All Provincial Governments and Administrations.

Sir,

Income-tax - Deduction of, from salary, etc. - Memorandum of Instructions for -.

.....

Same as S.No 45 C.T. 62 (2)

I am directed to invite a reference to my letter C.No.35(3)-I.T./39, dated the 15th August 1939, on the subject noted above and to say that for the words and figures "10th August 1939" occurring in line 2 thereof the words and figures "11th August 1939" may kindly be substituted.

I have the honour to be,

Sir,

Your most obedient servant,

Sd/- T.S.Pillay,

Deputy Secretary to the Government of India.

Copy forwarded to all Departments of the Government of India (including Financial Adviser, Military Finance and Reforms Office), the Financial Commissioner, Railways, the Crown Finance Officer, the Finance Officer, Communications, the Private Secretary to H.E. the Viceroy, the Military Secretary to H.E. the Viceroy, the Secretary to Governor

General/-

(127)

General, Public, the Secretary to H.E. the Crown Representative, the Auditor General, the Director General, Posts and Telegraphs, the Master, Security Printing, India, the Mint Masters, Calcutta and Bombay, all Accountants-General,* (including the Military Accountant General), the Comptrollers, Assam, North-West Frontier Province, Sind and Orissa, the Audit Officer, Indian Stores Department, the Deputy Accountants General, Posts and Telegraphs, Delhi, Calcutta, Madras, Nagpur, the Accounting Officer, Telegraph Check Office, Calcutta, the Director of Audit, Defence Services, the Director of Railway Audit and the Controller of Railway Accounts.

* including Accountant-General, Posts and Telegraphs.

Copy also forwarded to the Income-tax Adviser, Central Board of Revenue.

By order, etc.,

Sd/- K.B.Deb,

for Deputy Secretary to the Government of India.

APJ.

S. N. 55

148

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 17th October *1939*

Issued 17/10/39 Sth

R.Dis. No. F.31(Coll.II)-39 Enc. 2.
Judl.

Issued 11/X

A copy of the undermentioned paper is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information,

~~for information~~, ~~in continuation of~~ with reference to ~~the correspondence ending with~~ (his)

~~Memorandum~~
~~letter~~ from this Residency R.Dis.No.F.31-39/Judl., dated the
endorsement

S.N.115
R.D.F.31-39

26th July 1939.

2. A copy of the Board's demi-official letter referred to was forwarded to the Assistant Commissioner of Income-tax with endorsement from this Residency No.F.97-37/R.O.I, dated the 13th September 1937.

No. , dated the

By order, etc.,

11.10

for Secretary to the Resident in Mysore.
~~Asst.Secy~~ and Commissioner of Income-tax.

List of papers.

S.N.86
P.U.C.

Endorsement from the Central Board of Revenue, C.No.21(5)-I.T./39 dated the 23rd September 1939, with enclosures.

11 10.10.39

Asst
18.X.39

FRY 6

JM 90

150

Circular No.41 of 1939.

R.Dis.No. 26(31)-I. T./ 39-

CENTRAL BOARD OF REVENUE

Simla, the 23rd September 1939.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
10,023 / Secret
Diary No. 10,363
File No.....

CIRCULAR

SPECULATIVE TRANSACTIONS PROFITS AND LOSSES OF - LIABILITY TO ASSESSMENT.

(1) Where a person is engaged in business and enters into speculative transactions pertaining to his usual line of trade, he should be regarded as carrying on business in respect of such speculative transactions even though the number of transactions be small and the transactions may appear to be isolated. Any profit or loss arising therefrom should be included in the assessment made on his income. This applies equally to brokers.

(2) Where a person undertakes isolated speculative transactions in shares, commodities, etc., which lie quite outside his usual line of business, if any, and makes a profit or loss thereby, such profit or loss cannot be said to arise from a business, profession or vocation and should therefore be excluded from his assessment.

Each case has to be examined on its merits to determine whether, as a question of fact, the transactions constitute the carrying on of a business. Where the transactions do not amount to the carrying on of a business no attempt should be made to assess any profit made from such transactions under other sources.

Particular care is necessary in dealing

(151)

with claims for losses on share or commodity speculation by persons who are not professional dealers. Claims that certain shares on the sale of which profits have been made were fixed investments whilst others on the sale of which losses have been made were trading stock should be carefully investigated.

Inspecting Assistant Commissioners should pay special attention to cases in which speculative losses have been improperly allowed and should move the Income-tax Officer to take action under Section 34 in all appropriate cases.

First Secretary, Central Board of Revenue.

7 9 39.

All Commissioners of Income-tax.
All Appellate Assistant Commissioners.
The Income-tax Adviser to the Board.

MH

F 114

SN 91

152

Circular No. 40 of 1939.

R.Dis.No.4(19)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 21st September 1939.

...

CIRCULAR.

Indian Income-tax Act, 1922 - Section 22 - Return of total income and total world income - Scrutiny as to validity of -.

...

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE.
Diary No. 10,854

At present a large number of returns filed under section 22(2) of the Income-tax Act are so badly filled in that their validity as returns is open to doubt and even in cases where the Income-tax Officer is able to establish under-assessment, it is difficult to institute penalty or criminal proceedings. As remarked by the Lordships of the Lahore High Court in 7 I.T.C. 347 an assessee whose return is invalid could, in a prosecution, plead "not guilty" on the ground that he made no return in the eye of the law. The Board, therefore, desires to impress upon Income-tax Officers the the importance of verifying that the return filed is valid before making an assessment.

2. But every incomplete return is not necessarily invalid. For instance, it would, in practice, be impossible to insist that a return must have entries from the top of Page 1 to page 11 showing "nil" wherever there are no entries to be made. The essential conditions to be satisfied before a return can be treated as valid are that Part I should be filled up and that the verification should be signed by the proper party in a correct manner by entering in the appropriate place the accounting year and striking out the unnecessary words and filling in the date and year. According to paragraph 90(ii) of the

Income---

(153)

Income-tax Manual, which is based upon the Board's Circular No. R.Dis.21/638(11)-I.T./25, dated 3rd August 1925, it is not necessary for the assessee himself to sign the return. Some representative of his, duly authorised for the purpose in proper legal form, can sign it. But some dishonest assessees take shelter under this and make their agents sign their returns, which renders it difficult, if not impossible, to put up the real offenders to prosecution. The Board has accordingly resolved to cancel this circular and to require that, in future, returns should be signed in the case of an individual by the individual himself; and in the case of a Hindu undivided family by the Manager or Karta. A draft rule in this respect has already been published in the Gazette of India under Notification No.59-Income-tax, dated 22nd July 1939.

3. Part I of the return form contains the statement of total income and of total world income and if the total has been inserted at the foot of this Part, this total being a correct sum of the items above it, then it can be inferred that, where spaces have been left blank, the assessee means that there is no income from these sources. A return so completed would not be invalid by reason of such blanks in column 2, provided that the total agrees with the items which have been inserted.

4. Certain other parts of the form are relevant only if income from a particular source has been declared in Part I and if that part shows that there is no income from the source in question, the non-completion of the subsequent parts...

parts need not be regarded as making a return invalid. For example, Parts III, IV and V can only relate to persons with income from business, profession or vocation and non-completion by a person, who shows no income from this source, would not render the return invalid. Similarly Part VI can only have a reference to a man, who has income from property and if a person in Part I shows that he has no income from property, the non-completion of Part VI would not render the return invalid. If later on the Income-tax Officer finds that an assessee had properties, which had not been declared in the return, there will be no legal difficulty in prosecuting him for filing a false return.

5. Part II gives an assessee the right to claim certain deductions and the non-completion of this part should not be regarded as making the return invalid. But, in any case, in which the deductions referred to therein have been claimed in previous years, it would only be fair to the assessee if the Income-tax Officer returns the form to the assessee with a form I.T. 105, so as to give him a chance to complete this part and claim the allowance. In a case where from Part I it is clear that particulars are required in Parts III, IV, or VI, the non-completion of those parts might afford the assessee room for contending, in the event of his being subsequently prosecuted, that in law there was no return, and it should, therefore, be sent back for proper completion before assessment proceedings are started. If the Income-tax Officer

treats.....

treats a return as a valid return and proceeds to act upon it up to a certain stage it will not be proper for him later on to treat it as an invalid return on account of some technical defect.

6. Part IV applies to assessees, who have income from business, profession, or vocation. The form requires that this Part should not only be completed properly, but also requires that a copy of the profit and loss account and balance sheet should be attached to the return; and failure to attach a copy of these, if such documents are usually drawn up, might also afford room for contention such as is referred to in the preceding paragraph. But if (as in the case of small business man) no profit and loss account or balance sheet has been regularly maintained a copy cannot of course be attached and the non-attachment would not afford room for any such contention. The previous records with the Income-tax Officer would indicate in which cases profit and loss statements should be insisted on and the Board desires that the instructions in the form about profit and loss account and the method of accounting should not be used to harass small assessees.

Lowry 26.9.39.

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.
The Income-tax Adviser to the Board.

R.23/9.

S.N. 92

(15-b

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 18th October 1939.

Issued 18/10/39 DN

Issue 16/x

R.Dis.No. F.31(Coll.II)-39 Judl; Enc. 10.

A copy of the undermentioned papers is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and guidance.

By order, etc.,

S/C 16.10

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

14/10/39

OSR. 14.X.39

- - -

Circulars from the Central Board of Revenue,

S.N.91. No.40 of 1939 dated the 21st September 1939,

S.N.90. No.41 of 1939 dated the 23rd September 1939.

(With 4 spare copies.)

NS

S.N. 93

(157)

F.A 4 C

Circular No. 42 of 1939.

R.Dis.No.4(20)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 27th September 1939.

...

Circular.

PROCEEDINGS UNDER SECTION 34.

In the case of Mahaliram Ramjeedas v. Commissioner of Income-tax, Bengal, reported at page 265 of 1938 I.T.R., the Calcutta High Court held that as a preliminary to taking action under section 34, as it stood before amendment by the Income-tax (Amendment) Act, 1939, the Income-tax Officer should give the assessee an opportunity of being heard before he decides to invoke the provisions of section 34 in any case and that if he does not do so, the subsequent proceedings are invalid. The Board has not accepted this decision and has preferred an appeal to the Privy Council.

In the meantime the attention of all officers is drawn to the recent amendments to section 34 which now requires that, before action under the section can be taken, definite information must have come into the possession of the Income-tax Officer and that as a consequence he has discovered that income, profits and gains have escaped assessment, etc. The question as to what constitutes definite information must depend upon the circumstances of each case; and, whilst it is most undesirable and unnecessary to give a narrow interpretation, it will not, in future, be legal for an Income-tax Officer to issue a notice under section 34

arbitrarily....

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE.
17 OCT 1939
Diary No. 10,634
File No.

158)

arbitrarily and on mere suspicion without any evidence whatsoever.

Usually action is taken under this section —

(a) on receipt of information from some other Income-tax Officer; or

(b) on information gathered from the records of civil courts, Sub-Registrar's Offices, Railway Stations, etc.;

(c) on facts gathered as a result of general outdoor survey;

(d) on information communicated by private parties openly or anonymously; or

(e) on facts discovered or inferences drawn during the assessment proceedings for a subsequent year.

In cases which fall under heads (a),(b) or (c) above, where there is some doubt whether there has been escapement or not, it is desirable (though not legally necessary) to ask the assessee informally to explain the items in question. Such a course will prevent the starting of unnecessary proceedings when a satisfactory explanation is readily available. In cases falling under (d), it would normally be both difficult and undesirable for the Income-tax Officer to communicate the source, nature and full extent of his information, but the Income-tax Officer should apply his mind to the question whether he believes the information to be true and, in the exercise of his discretion, he may find it desirable to make further enquiries before issuing a notice under the section.

2 May 2 x 39.

To First Secretary, Central Board of Revenue.

All Commissioners of Income-tax.
All Appellate Assistant Commissioners of Income-tax.
Income-tax Adviser to the Board.

F.A.4

SM 94

(159
b

J. 7/11/39
14/10/39

Circular No. 43 of 1939.

R.Dis.No.34(24)-I.T./39.
CENTRAL BOARD OF REVENUE

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
17 OCT. 1939
Diary No. 10635
File No.

Mr. N.S.U
D.O. 31/39

Simla, the 2nd October 1939.

SM 104
R.2. 39-

C I R C U L A R

Appeal orders - Central scrutiny of - Cases involving reduction of more than Rs.1,000/- tax - Board's Circular No. 19 of 1939 dated 29th June 1939.

It appears to the Board that no uniform procedure is followed in complying with paragraph 3 of the Board's Circular quoted above. In some provinces, the Appellate Assistant Commissioners send their appeal orders direct to the Board, while in others they are sent through the Commissioner. As uniformity of procedure is desirable in this respect, the Board directs that two copies of the orders requiring central scrutiny should be supplied by the Appellate Assistant Commissioner to the Commissioner who will send one copy with his own comments, where necessary, direct to the Income-tax Adviser addressed to him officially and not by name.

14.10.39.

First Secretary, Central Board of Revenue.

All Commissioners of Income-tax.
All Appellate Assistant Commissioners.
The Income-tax Adviser to the Central Board of Revenue.

F.A.V
J. 15/10/39

S.N. 957

(160

R. Dis. No. 50(12)-I.T./39,

CENTRAL BOARD OF REVENUE.

Simla, the 5th October, 1939.

M.N.V

From

T. S. Pillay, Esquire, M.A.,B.L.,

First Secretary, Central Board of Revenue,

To

The Appellate Assistant Commissioner of Income-tax, North Range, Lahore.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
17 Oct. 1939
Diary No. 10,656
File No.

Sir,

Appeals - Against section 27 order - Section 30(2)- Limitation - Mode of computation -.

....

With reference to your letter No. 362, dated the Ist September 1939, I am directed to say that the period of limitation in appeals against section 27 orders should be reckoned from the date of the receipt of the copy of the order by the assessee.

I have the honour to be,

Sir,

Your most obedient servant,

First Secretary, Central Board of Revenue.

Copy, with a copy of the letter replied to, forwarded to -

All Commissioners of Income-tax.
All Other Appellate Assistant Commissioners.
Income-tax Adviser to the Board.

By order, etc.,

First Secretary, Central Board of Revenue.

B.A.

Copy of letter No. 362, dated the Ist September 1939, from The Appellate Assistant Commissioner, Income-tax, North Range, Lahore, to The First Secretary, Central Board of Revenue, Simla.

Appeals - Against Sec: 27 orders Section 30(2) - Limitation - Mode of computation - Your Circular No. D. Dis. No. 50(5)- I.T./ 39, dated 10-8-39.

.....

I have the honour to invite your attention to the fact, that section 30(2) has been differently interpreted by different Commissioners for computing the period of limitation in appeals against section 27 orders.

It will be observed, that the Act has not been amended, so far as this matter is concerned. The appeal has still ordinarily to be presented within 30 days of the date of the refusal to make a fresh assessment under section 27. This obviously refers to the date of the section 27 order. As, however, it usually takes some time to intimate the order, or serve a copy thereof on the assessee concerned, the question is whether an appellant is entitled to the period intervening between the date of the order and the date of the intimation or the service of the copy, as the case may be. Strictly legally speaking, perhaps, the period of limitation should be reckoned with effect from the date of the order, irrespective of when the assessee concerned comes to know of it. The law is to be interpreted as it is, and not as it ought to be, and 4 I.T.C. 90 could be cited in support of the strictly legal interpretation. I am, however, not quite sure, if it is the intention of the Board that the Appellate Assistant Commissioners should take their stand on the strictly legal position. Moreover, a complication is introduced when.....

when section 30(2) is read with section 67(A). As it has been directed (Para 99(a) of the Income-tax Manual) that a copy of the section 27 order should be served on the assessee concerned, without application, as soon as the order has been passed, there is usually no application for a copy of the section 27 order. In the circumstances, I am not quite sure, if such an assessee is entitled to the period excludable under section 67(A), which only allows "The time requisite for obtaining a copy of such order." One of the Commissioners, however, characterized this interpretation of the provisions of section 30(2) and 67(A) as "too literal and narrow", while others have upheld it as the only legal interpretation.

In the circumstances, I shall feel grateful to receive the Board's instructions on this point, as it arises quite frequently.

My personal opinion is, that the period of limitation should be reckoned with effect from the date of the service of the copy of section 27 order, but then it may be objected that the language of the section itself does not support this interpretation, particularly when it has been explicitly laid down in the case of appeals against order under other sections of the Act (e.g. Section 25-A, Section 26-A etc.) that the period is to count from the date of intimation of the order, while in this case it is the date of the refusal to make a fresh assessment.

S. N 96

163

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 23rd October 1939.

Issued 23/10/39 Dth

R.Dis.No. F.31(Coll.II)-39 Judl. Enc.6.

A copy of the undermentioned papers is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and guidance.

By order, etc.,

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

W 19.10.39. ASPa 19.x.39

- - -

1. Circular from the Central Board of Revenue, No.42 of 1939, dated the 27th September 1939.

2. Endorsement from the Central Board of Revenue, R.Dis.No.50(12)-I.T./39 dated the 5th October 1939, with enclosures.

(With 4 spare copies of 1.)

NS.

S. N. 97

164

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 23rd October 1939.

Issued 23/10/39 Sh

Issue 20/x

R.Dis.No. F.31(Coll.II)-39 Judl. Enc. 5

A copy of the undermentioned paper is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and guidance, with reference to endorsement from this Residency R.Dis.No.F.31-39/ Judl., dated the 19th July 1939.

By order, etc.,

o/c 20/10

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

- - -

19.10.39.

Asra 19.x.39

Circular from the Central Board of Revenue, No.43 of 1939, dated the 2nd October 1939.

(With 4 spare copies.)

NS

S.N-98

165

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N. N 90

RDis 31/39

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
24 Oct. 1939
Diary No. 10,836
File No.....

CIRCULAR NO. 44 of 1939

D.Dis. No.56(5)-I.T./39

CENTRAL BOARD OF REVENUE

Simla, the 10th October 1939.

CIRCULAR

Non-residents - Interest paid to, in 1938-39 by a resident assessee - Ascertainment of particulars for purposes of assessment.

S.N-97

RD 31-39

In its circular No.17 of 1939 (D.Dis. No. 51(2)-I.T./39, dated the 15th June 1939) the Board has issued instructions that so far as interest paid without British India before 1st April 1939 is concerned, it should not be disallowed in the payer's assessment by reason of non-deduction of tax under section 18(3A). This, however, does not preclude an Income-tax Officer from ascertaining particulars of such payments from the payers for the purpose of assessment, where possible either directly on the payees, or through agents. Such particulars should therefore be called for from all persons likely to make payments of this kind (e.g. banks), and assessment proceedings taken accordingly whenever possible.

11-X-39

Second Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax,
All Appellate Assistant Commissioners,
The Income-tax Advisor to the Board.

MH

F. 4

S. N. 99

166

C.No. 28 (20)-I.T./39.

CENTRAL BOARD OF REVENUE.

Simla, the 6th October 1939.

From

T. S. Pillay, Esquire, M.A., B.L.,
First Secretary, Central Board of Revenue,

To

All Commissioners of Income-tax,

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
Oct. 1939
Diary No. 10,886.
File No.

Sir,

Forms - I.T. 103 - Form authorising an agent to appear in income-tax proceedings.-

I am directed to invite a reference to Board's Circular No.28 of 1939 (C.No.589-I.T./39, dated the 22nd August 1939) and to say that the wording of Form I.T. 103 is inappropriate in cases where a general power-of-attorney is sought to be executed or where the intention is to cover all the proceedings in respect of one and the same case of the same assessee. Further the use of adhesive stamps on the form is not permissible in cases where it is regarded as a power-of-attorney. In view of these considerations it seems doubtful whether the form could be used by the assessees to any great extent and accordingly the Board has decided to discontinue the form and steps are being taken to omit it from the I.T. series.

2. I am to say that in the absence of Form I.T. 103, the proper course for the assessees and their representatives would be to use proper stamp paper and to have written or typed thereon the form of

words ... ...

words shown on I.T. 103 or, since that form of words is not prescribed, a form of words which is substantially the same wherever practicable. These words will be reproduced in Part III of the Income-tax Manual to be issued shortly.

I have the honour to be,

Sir,

Your most obedient servant,

K. B. 8-6

for First Secretary, Central Board of Revenue.

Copy forwarded to the Income-tax Adviser to the Central Board of Revenue.

Extract paragraph 1 forwarded to:-

The Controller of Printing and Stationery with the request that the omission of the form, in English and in Indian languages, from the I.T. series may kindly be sanctioned.

The Manager, Forms Press, Calcutta.

J.G.M.
10/10.

S.N.100.

165

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 31st October 1939.

Issue 30/x Issued. 31/10/39

R.Dis.No. F.31(Coll.II)-39/Judl. Enc. 5

A copy of the undermentioned paper is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information, with reference to endorsement from this Residency R.Dis.No.F.31-39/Judl., dated the 19th July 1939.

S.N.107
R.Dis.F.31-39

By order, etc.,

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

W/ 27.10.39

AsRa. 27.x.39

- - -

Circular from the Central Board of Revenue No.44 of 1939 dated the 10th October 1939.

S.N.98
P.U.C.

(With 4 spare copies.)

S.N 101

169

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 31st October 1939.

Issued 31/10/39

R.Dis.No. F.31(Coll.II)-39 Judl. Enc.

A copy of the undermentioned paper is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information, with reference to endorsement from this Residency R.Dis.No.F.31(Coll.II)-39/ Judl., dated the 19th September 1939.

By order, etc.,

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

Letter from the Central Board of Revenue, C.No. 28(20)-I.T./39 dated the 6th October 1939.

NS

F 42

SN 102

170

Circular No.2 of 1939.
D.Dis.No.271-Admn. (I.T.)/39.

CENTRAL BOARD OF REVENUE.

Simla, the 29th September 1939.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
10
Diary No. 10,469
File No.....

CIRCULAR.

Leave - Casual leave - Conditions for the grant of-.

At present there is no uniformity in the grant of casual leave to gazetted and non-gazetted staff in the Departments subordinate to the Board. The Board has, therefore, decided that the following instructions should be followed with effect from 1st January 1940.

2. Casual leave, which is of course entirely a matter of grace and not of right, should be limited strictly to 15 days in the year. There is a widespread impression amongst Government servants that they are entitled to take casual leave every year up to the maximum amount admissible. This impression is erroneous. There is no reason why they should have any casual leave at all during the year unless special circumstances require it. Ordinarily casual leave should be granted for a period not exceeding four days at a time, but in special circumstances this limit may be extended to seven days by the head of the department. When the absence is likely to exceed seven days, regular leave should be granted for the entire period.

( ) To Heads of Department other than C.I.Ts. Minor Administrations, and Assam.

(3. Heads of Departments may also take casual leave within the limits prescribed in paragraph 2. If their continuous absence on casual leave does not exceed four days, no permission of the Board is required. The absence should however be reported to the Board at once for information. In other cases, previous permission of the Board should be obtained. It will be

incumbent--------

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incumbent on them to make adequate arrangements for the disposal of urgent work during their absence.

This supersedes the instructions contained in the Board's Circular D.Dis.No. 2/41-G1/27, dated the 13th January 1927.)

4. Appellate Assistant Commissioners of Income-tax will be treated as Heads of Departments for the purpose of this circular.

5. The instructions contained in the Board's Circular letter D.A.Dis.No.222-G1/35, dated the 13th September 1935, warning officers against proceeding on casual leave without previous sanction, where such is required, will stand.

Lowry 3.x.39.
First Secretary, Central Board of Revenue.

To

All Heads of Departments subordinate to the Board.

J.G.M.
2/10.

IN 103

(172)

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 6th November 1939.

Issued 6/11/39

R.Dis No. F.31(Coll.II)-39 Enc. 1.
Judl.

A copy of the undermentioned paper is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and guidance.

for information, in continuation of / with reference to the correspondence ending with (his) Memorandum / letter / endorsement from

No. , dated the

By order, etc.,

for Secretary / Asst. Secy. to the Resident in Mysore.
and Commissioner of I.T.

List of papers.

S.N.102 P.U.C. Circular from the Central Board of Revenue, No.2 of 1939 dated the 29th September 1939.

31.10.39

S.N.(104)

(173)

F.A.Y

R.Dis.No.56(2)-I.T./39.

CENTRAL BOARD OF REVENUE

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
17 OCT 1939
Diary No. 10,632
File No.

Simla, the 5th October 1939.

M.N.S.U

T9 185/39

From

T. S. Pillay, Esquire, M.A., B.L.,
First Secretary, Central Board of Revenue,

To

All Commissioners of Income-tax
(including the Commissioner of Income-tax, Central, Bombay).

Sir,

Non-residents - Banks - Payment of interest to - Non-deduction of tax at source from.

S.N.1 R.D. 18

I am directed to invite a reference to Board's endorsement R.Dis. No. 564-I.T./38, dated the 28th February 1939 regarding the non-deduction of tax at source from interest paid to non-resident insurance companies and to say that a similar position arises in the case of banks which are treated as non-residents but in their case interest on loans and overdrafts is not paid in the same manner, the usual procedure being of course for the bank to debit the account with the interest. I am to request that if on examination of their accounts for assessment purposes it is found that they have adhered to the common practice of debiting interest in full, no objection should be raised to this convenient method of dealing with the matter, provided of course the banks are prepared to include such interest in their

Income- ...

(174)

Income-tax Returns as un-taxed.

I have the honour to be.

Sir,

Your most obedient servant,

6. x. 39.

First Secretary, Central Board of Revenue.

Copy forwarded to the Income-tax Adviser the Central Board of Revenue.

S N 185

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THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 27th October 1939.

Issue
24/x
issued
27/10/39
DM

R.Dis.No. F.31(Coll.II)-39 Enc.1.
Judl.

A copy of the undermentioned paper is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information, with reference to endorsement from this Residency R.Dis.No.F.185-39/Judl., dated the 18th April 1939.

S.N.2
R.Dis.F.185-39

By order, etc.,

O/C 24.10

for Secretary to the Resident &
Commissioner of Income-tax.

20.10.39

AsRa.
23-x-39

P.U.C. Letter from the Central Board of Revenue, R.Dis.No. 56(2)-I.T./39 dated the 5th October 1939.

(Sp. copy kept below.)

NS

S.N. 106

No.F.31(18)-E/39.

A copy of the undermentioned paper is forwarded to the

Hon'ble the Resident at Hyderabad,
" " in Mysore,
" " for Central India,
" " Rajputana,
" " the States of Western India,
" " the Punjab States,
Resident for Baroda and the Gujarat States,
" in Kashmir,
" at Gwalior and for the States of Rampur and Benares,
" for the Madras States,
" Kolhapur and the Deccan States,
" the Eastern States,
Military Adviser-in-Chief, Indian States Forces,

for information, in continuation of endorsement from the Political Department No.F.31 (18)-E/39, dated the 4th October 1939.

S.N. 87 (2)

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
- 1 NOV 1939
Diary No. 11,082
File No.

By order, etc.,

for Secretary to His Excellency the Crown Representative.

Political Department,
New Delhi,
the 27th October 1939.

Circular letter C.No.35 (3)-I.T./39 dated the 15th September 1939 from the Central Board of Revenue with enclosure.

(Withdrawn.)

177

Same as S.N. 77 (2)

C. No.35 (3)-I.T./39.

GOVERNMENT OF INDIA.

FINANCE DEPARTMENT (CENTRAL REVENUES)

Simla, the 15th September 1939.

From

T.S.Pillay, Esquire, M.A., B.L.,
Deputy Secretary to the Government of India,

To

All Provincial Governments and Administrations.

Sir.

Income-tax - Deduction of, from salary, etc. - Memorandum of instructions for -.

In continuation of my letter C.No.35(3)-I.T./39, dated the 15th August 1939, I am directed to say that a question has been raised whether the average rate of income-tax worked out at the beginning of the year should be revised and adjustments of income-tax made if a person receives an honorarium or enhanced pay for some period during the year on account of officiating promotion or reduced pay due to reversion or leave on half average pay etc. and whether such revisions of the average rate of income-tax instead of being effected on each and every occasion of a change in emoluments may not be carried out at fixed intervals, say half yearly or quarterly. The Government of India have no objection to disbursing officers making adjustments in respect of deductions at source at periodical intervals. In fact, the proviso to section 18 (2) of the Indian Income-tax Act, 1922, actually gives them the power to do so. Such adjustments should not however come into the account of two years; that is, adjustments should not be made from payments on or after the 1st April of any year in respect of any excessive or deficient deduction made prior to that date. In this connection I am to enclose an extract of letter No.T.1065-Admn.I/19-39, dated the 5th September 1939, from the Auditor General of India to the Accounts Officers and to request that the procedure stated therein may be brought to the notice of all disbursing officers for their information

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and guidance.

I have the honour to be,
Sir,
Your most obedient servant,

Sd/- T.S.Pillay, 19-9-1939,
Deputy Secretary to the Government of India.

Copy forwarded to all Departments of the Government of India (including Financial Adviser, Military Finance and Reforms Office), the Financial Commissioner, Railways, the Crown Finance Officer, the Finance Officer, Communications, the Private Secretary to His Excellency the Viceroy, the Military Secretary to His Excellency the Viceroy, the Secretary to Governor-General, Public, the Secretary to His Excellency the Crown Representative, the Auditor General, the Director General, Posts and Telegraphs, the Master Security Printing, India, the Mint Masters, Calcutta and Bombay, all Accountants-General, (including the Military Accountant General), the Comptrollers, Assam, North-West Frontier Province, Sind and Orissa, the Audit Officer, Indian Stores Department, the Deputy Accountants General, Posts and Telegraphs, Delhi, Calcutta, Madras, Nagpur, the Accounting Officer, Telegraph Check Office, Calcutta, the Director of Audit, Defence Services, the Director of Railway Audit and the Controller of Railway Accounts.

* including Accountant General, Posts & Telegraphs.

Copy also forwarded to all Heads of Departments (including the Commissioners of Income-Tax, and the Income-Tax Adviser) subordinate to the Board.

By order, etc.,

Sd/- K.B.Deb, 19-9-1939.
for Deputy Secretary to the Government of India.

Copy of letter T.1065-Admn.I/19-39, from the Auditor General of India, to the Accounts Officers, dated the 5th September 1939.

Instructions for the deduction of income-tax and super-tax commencing from the 1st April, 1939 -

---

* * * *

I have the honour to state that the Auditor General has decided with the concurrence of the Central Board of Revenue that adjustments in respect of deductions at source should be made at half-yearly intervals only. But while this may be adopted as the normal procedure, it should be understood that there would be nothing to preclude earlier or more frequent adjustments in individual cases at the request of a Government servant or even at the discretion of the officer responsible for making deductions at source where such a course is considered advisable in consequence of an appreciable change in income.

2. The months selected for the periodical half-yearly adjustments would normally be September and March, but if it is likely to be difficult in practice to examine the cases of all assessees in a single month, the examination may be spread over two or more months at the discretion of the Accountant General.

F.A 4/

SN (6)

150

Circular No. 46 of 1939.

D. Dis.No. 27(30)-I.T./39.

CENTRAL BOARD OF REVENUE.

New Delhi, the 19th October 1939.

.....

CIRCULAR.

Allowances in assessing income from Business and Profession - Bonus or Commission for services rendered - Section 10(2)(X).

Under Clause (x) of sub-section 2 of Section 10, bonus or commission paid to employees for services rendered is an admissible deduction, where such sums would not have been payable to them as profits or dividends if not paid as bonus or commission. The clause further lays down certain other conditions for determining the admissibility of such bonus or commission.

Cases have come to the notice of the Board, where in applying these conditions, an Income-tax Officer has embarked upon the almost impossible task of determining what would be reasonable remuneration of an employee, as compared with the amount actually paid to him even though there has been no suggestion of attempted fraud or evasion. The Board considers that the main point to be looked into in applying the provision of this sub-section is whether the amount of bonus or commission has been fixed with a view to the avoidance of tax by the employer. If there are no grounds for suspecting this, the bonus or commission paid to employees with reference to profits should normally be allowed.

Similarly.....

1817

Similarly where salary is paid bona fide for services rendered, the Income-tax Officer should not attempt to place his own valuation on the services but should allow the amount charged in the accounts unless there is evidence of attempted tax avoidance

24. X. 39

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax,

All Appellate Assistant Commissioners of Income-tax.

The Income-tax Adviser to the Board.

R.23/10.

F.A 24

Circular No. 45 of 1939.

R.Dis.No.61(1)-I.T./39.

Central Board of Revenue.

New Delhi, the 13th October 1939.

Please see Bi: N 29/1944 (File A.F. 6.43)

M.N.S.V

Rdis 31/39

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
- 2 [illegible] 1939
Diary No. 11,100
File No.

...

CIRCULAR

Firm, unregistered - Treatment of as registered firm under section 23(5)(b).

...

Section 23(5)(b) of the Act is to be applied to the case of an unregistered firm when in the opinion of the Income-tax Officer the aggregate amount of tax including super-tax, if any, payable by the firm and by the partners individually would be greater if the firm is treated as a registered firm than the aggregate amount which would be payable by the firm and the partners individually if the firm were assessed as an unregistered firm. But the result of an appeal on behalf of the firm might be that treating the firm as registered was disadvantageous to the revenue. To avoid this complication, in every case in which the Income-tax Officer proposes to apply the provisions of section 23(5)(b), he should obtain the approval of the Inspecting Assistant Commissioner. Both the Income-tax Officer and the Inspecting Assistant Commissioner should examine the case as a whole so as to be quite satisfied that the application of this provision will yield a greater aggregate amount of tax including super-tax by the firm and all the

partners ..

(83)

partners. The possible reaction as a result of appeal should not be lost sight of and on any doubtful point the case should be examined having regard to the prospects of an appeal being successful. If this is done, the number of cases in which the Appellate Assistant Commissioner would make a reduction which is sufficiently large as to render the application of this section inappropriate, is likely to be negligible and if any such case does in fact arise, it can be considered on its merits by the Commissioner under section 33 or the question of an appeal to the Appellate Tribunal could be considered if the case arose after 1st April 1941.

The Income-tax Officers should be instructed to make a note of each case affected by a decision under section 23(5)(b) so that the net tax effect of any appeal on the group of cases (firm and partners) as a whole can be considered.

Lowry

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.
The Income-tax Adviser to the Board.

SR.

F.A.4 S. N. 109 184

Circular No.47 of 1939.
R.Dis.No.27(31)-I.T./39.
CENTRAL BOARD OF REVENUE.
New Delhi, the 23rd October 1939.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
11,100 3/XI - 4 ... 1939
Diary No. 11,229
File No.....

CIRCULAR.

Interest paid abroad by banks trading in British India - Interest on short term loans. Interest paid to foreign head office.

....

In the case of an exchange bank, a foreign bank, or an Indian bank carrying on a genuine international banking business as distinct from a money-lending or investment business interest paid without India on short-term borrowings is to be allowed as a deduction in arriving at the profits or gains assessable to Income-tax. In such cases the interest so paid is not to be regarded as interest on capital within the meaning of that expression in the proviso to Section 10(2)(iii). Interest paid (or credited) to the foreign Head Office of the bank is to be disallowed on the ground that a person cannot pay interest to himself, but the cost (including interest paid), if any, to that Head Office of obtaining the funds to be lent to its branch in India is to be allowed in the same way and to the same extent as if that cost had been incurred by the British Indian branch direct.

Any claim from an institution which does not come strictly within the above description or for

interest....

165

interest on long loans or on what is virtually fixed capital should be referred to the Income-tax Adviser through the Inspecting Assistant Commissioner and Commissioner before the assessment is completed.

27.X.39.

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

All Appellate Assistant Commissioners of Income-tax.

The Income-tax Adviser to the Board.

R.25/10.

S.N.180

186

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 14th November *1939*.

Issued 14/11/39

Issue 9/11

R.Dis. No. F.31(Coll.II)-39/Judl. Enc. 2

A copy of the undermentioned paper(s) is forwarded to the

Collector and District Magistrate,
Residency Surgeon,
Commissioner of Police,
Inspector of Schools,
District and Sessions Judge, Registrar of Assurances and Registrar of Firms and Joint Stock Companies,
Officer in charge of the Hon'ble the Resident's Treasury,
President, Municipal Commission,
Manager, Residency Press,

Civil and Military Station, Bangalore, for information and guidance,

~~for information,~~ in continuation of ~~with reference to~~ ~~the correspondence ending with (his~~ ~~Memorandum~~ ~~letter~~ endorsement from this Residency R.Dis.No.F.31(Coll.II)-39/Judl., dated the 28th October 1939.

S.N.89 'Q'

No. , dated the

By order, etc.,

for Secretary ~~Asst. Secy~~ to the Resident in Mysore.

9.11.39

List of papers.

Encl. to S.N.106 P.U.C. Circular letter from the Government of India, Finance Department (Central Revenues), C.No.35 (3) -I.T./39 dated the 15th September 1939 with enclosure.

8.11.39

8.11.39

S.N.111

(187)

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 14th November *1939*.

Issued 14/11/39 Issue 9/11

R.Dis. No. F.31(Coll.II)-39 Judl. Circ./5

A copy of the undermentioned paper(s) is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and guidance.

~~or information,~~ in continuation of ~~the correspondence ending~~ with reference to with (his)

Memorandum / letter / endorsement fr

~~No.~~ ~~dated the~~

By order, etc.,

B.K.N/9.11.39

for Secretary / ~~Asst. Secy.~~ to the Resident in Mysore. and Commr. of Income-tax.

List of papers.

Circulars from the Central Board of Revenue,

S.N.108 No.45 of 1939 dated the 13th October 1939,

S.N.107 No.46 of 1939 dated the 19th October 1939,

S.N.109 No.47 of 1939 dated the 23rd October 1939.

(With 4 spare copies.)

S.N. 39

A.S.Rao 8.11.39

F.41

8 M 002

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Circular No.48 of 1939.

R.Dis.No.44(17)-I.T./39.

CENTRAL BOARD OF REVENUE.

New Delhi, the 31st October 1939.

...

CIRCULAR.

Provident Funds - Unrecognised - Employer and employees' contributions and interest thereon - Liability to income-tax - Instructions regarding.

The concession / which appeared in paragraph 3(iii) page 154 of the Instructions in the Income-tax Manual (7th edition) / enjoyed so far by unrecognised private provident funds is withdrawn and such withdrawal is to take effect in respect of all assessments on private provident funds from and including the year 1940-41. All private provident funds if constituted under an irrevocable trust should, therefore, be subjected to both income-tax and super-tax on their entire income, earned on or after 1st April, 1939, including interest on both employees' and employer's contributions. Contributions by the employer and any interest credited by him to the fund are to be allowed as deductions in his assessment.

Contributions by an employee are not to be deducted from his total income, but neither the interest credited to his account nor the employer's contributions are to be included in his total income. When the employee receives accumulated interest at or in connection with the termination of his employment so much of such interest as relates to his own contributions is exempt from tax in accordance with Explanation 2 to section 7(1). As regards that part of accumulated interest

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE.
16 NOV 1939
Diary No. M.597
File No.

which relates to the employer's contribution, it should not be subjected to tax in the hands of the employee to the extent to which such interest has been taxed in the hands of the Fund (i.e. to the extent to which it has been credited on or after 1st April 1939.

An unrecognised provident fund which is not constituted under an irrevocable trust and which consists only of employer's contributions and interest thereon is to be treated for all purposes as a fund or reserve belonging to the employer. Neither the contributions by the employer nor any interest allowed by him to such a fund is to be allowed in the computation of his profit for assessment, but all amounts paid or allocated out of the fund to individual employees (whether on retirement or not) are to be allowed in such computation and are to be treated as the income of the employees in question on the date on which such employees received or became entitled to such amounts.

In some circumstances it may be necessary to regard contributions by employees to an irregularly constituted provident fund as being merely deposits by such employees with the firm and as remaining the property of the employees individually. In such cases the interest to which each employee is individually entitled is to be regarded as his income whilst the employer's contributions and interest are to be treated as explained in the

previous....

previous paragraph. The socalled provident fund in such circumstances would not be treated as a separate entity and would not be liable to tax.

3.11.39

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

All Appellate Assistant Commissioners of Income-tax.

The Income-tax Adviser to the Board.

R.2/11.

S N 111

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THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Issued. 22/11/39 Issue 21/11

Bangalore, the 22nd November 1939.

R.Dis. No. F.31-39 Judl. (Collns II) Enc./0

A copy of the undermentioned paper(s) is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information.

~~for information~~, ~~in continuation of~~ / with ~~reference to~~ the ~~correspondence~~ ending with (his)

~~Memorandum~~ / ~~letter from~~ / endorsement

~~No. , dated the~~

By order, etc.,

for Secretary / ~~Asstx Secy~~ to the Resident in Mysore.

TJN/20/11/39.

List of papers.

S.N.112. Circulars from the Central Board of Revenue,
S.N.113. 8 of 1939 dated the 31st October 1939,
1939 dated the 31st October 1939.

(copies.)

LS 17.11.39.

A.Rao 18.11.39

F A 4/

S.N 116

193

D.O. D.Dis.No.50(15)-I.T./39.

CENTRAL BOARD OF REVENUE.

New Delhi, the 4th November 1939.

My dear Merchant,

Appellate Assistant Commissioners - Inspection of diaries and control of disposal of appeals by Commissioner -.
Your demi-official letter No.A.185, dated the 21st August 1939 and subsequent letter dated 7th October 1939.

As the Board is watching the progress of the disposal of appeals through monthly arrear reports submitted by Appellate Assistant Commissioners it is unnecessary for the Commissioner either to inspect the diary or to watch the progress of disposal of appeals. Copies of appellate orders and of monthly arrear reports are being sent to the Commissioner and if the latter finds that any Appellate Assistant Commissioner is habitually dilatory in the disposal of appeals he may bring it to the notice of the Board.

Yours sincerely,

R. Merchant

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
20 Nov. 1939
Diary No. 11,709 F.R.
File No.

F.R. Merchant, Esqr., F.S.A.A.,
Commissioner of Income-tax,
Bihar and Orissa.

Copy, with a copy of the letter under reply forwarded to the other Commissioners of Income-tax and the Income-tax Adviser to the Board.

By order, etc.,

R. Merchant

First Secretary, Central Board of Revenue.

R.

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D.O. No.A-85.

Commissioner of Income-tax,
Bihar and Orissa,
Patna.

Ranchi, the 21st August 1939.

J.N.-57
C.I.-99
R.D.-31-39(I)
Not found

My dear Pillay,

Appellate Assistant Commissioners - Functions of - Board's Circular No. 3 of 1939, C.No.31(17)-I.T./39, dated the 3rd April, 1939.

Paras: 3 and 4 of the Board's Circular quoted above define scope of whatever control the Commissioner has on the Appellate Assistant Comissioners. I am, however, not clear whether a Commissioner of Income-tax should not inspect the Appellate Assistant Commissioners' diaries as regards disposal of work, etc. and whether he should not take them to task for delay in disposal of appeal petitions. Will you kindly let me know what is my exact position in relation to Appellate Assistant Commissioners in these matters?

Yours sincerely,

F.R. Merchant.
21/8.

T.S. Pillay, Esq., M.A., B.L.,
First Secretary, Central Board
of Revenue, Simla.

F.A 4

S.N. 116

195

6-J part

Circular No.50 of 1939.

R.Dis.No.50(15)-I.T./39.

CENTRAL BOARD OF REVENUE.

New Delhi, the 4th November 1939.

N.S.W.
OFFICE OF THE
RESIDENT
MYSORE, BANGALORE.
Diary No. 11,782
File No.

Circular.

Appellate Assistant Commissioners
Correspondence with the Board.

A question has arisen whether the Appellate Assistant Commissioners should correspond direct with the Board. Under sub-section 4 of section 5 of the Act, these officers are under the direct control of the Board and perform their functions in respect of such persons or classes of persons and of such incomes and classes of incomes as the Board may direct. Under sub-section (7) of the same section these officers are also subordinate to the Commissioner. It follows therefore that in matters concerning appellate functions, such as the submission of monthly progress reports, disposal of particular appeals or any difficult point of law on which Board's advice or legal advice is desired the reference should be addressed to the Board. But in administrative matters or where the reference is of a general nature or concerns other Appellate Assistant Commissioners it should invariably be made through the Commissioner who will forward it to the Board with his comments.

First Secretary, Central Board of Revenue.

To

All Appellate Assistant Commissioners of Income-tax.
All Commissioners of Income-tax.
The Income-tax Adviser to the Board.

R.7/11.

F A 4

S. N 117

196

D.A.Dis.No.28(56)-I.T./39.

CENTRAL BOARD OF REVENUE.

New Delhi, the 7th November 1939.

OFFICE OF THE
RESIDENT
IN MYSORE, BANGALORE.
24.
Diary No. 11,830
File No.

From

R.L.Gupta, Esquire, I.C.S.

First Secretary, Central Board of Revenue.

To

The Appellate Assistant Commissioner of Income-tax.

S.D., Fort, Belgaum.

Sir,

Forms - Income-tax - Appeal forms - Assessments for 1938-39 made in 1939-40.

With reference to your letter No.C.B.R.570/39, dated the 27th September 1939, I am directed to say that the new forms of appeal prescribed by rules 21 and 22 of the Income-tax Rules should be used for all appeals preferred after the 1st April 1939.

I have the honour to be,

Sir,

Your most obedient servant,

R.L.Gupta.

First Secretary, Central Board of Revenue.

Copy with a copy of the letter under reply forwarded to --

Other Appellate Assistant Commissioners.
The Commissioners of Income-tax.
The Income-tax Adviser to the Central Board of Revenue.

By order, etc.,

K B Deb

for First Secretary, Central Board of Revenue. 11.11.39.

I.S.A.
.11.39.

(197)

Copy of letter No.C.B.R. 570/39 dated the 27th September 1939 from the Appellate Assistant Commissioner of Income-tax, S.D., Belgaum, to the First Secretary, Central Board of Revenue, Simla.

Forms - Income-tax - Use of old appeal forms - Against assessments for 1938-39 made in 1939-40 - Instructions re:

S.N. 103
R.D.-31-39 (1)
Not put up

I have the honour to invite your attention to the Board's Circular No.18 of 1939-C.No.46(15)-I.T./39 dated 28th June 1939 and to solicit Board's instructions whether in the case of assessments for 1938-39 completed after 1st April 1939, the appeals preferred by the appellants should be in the old appeal forms prescribed by old Rules Nos. 21 and 22 or whether they should be preferred in the new forms prescribed in Board's Notification No.35 dated the 29th April 1939.

2. I would also solicit instructions whether the new appeal forms are to be used by the appellants in the case of assessments for 1938-39 started under section 34 after 1st April 1939.

I.S.M.
9.11.39.

S.N. 115

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THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 29th November *1939*.

Issued 29/11/29 Issue 25/11

R.Dis. No. F.31(Coll.II)-39 Judl. Enc. 6.

A copy of the undermentioned paper(s) is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station Bangalore, for information.

~~for information,~~ ~~in continuation of~~ with reference to ~~the correspondence ending~~ with (his)

~~Memorandum~~ ~~letter~~ endorsement from

~~No. , dated the~~

for Secretary ~~Asst. Secy.~~ to the Resident in Mysore. and Commr. of I.T.

P.K.M. 24.11.39

List of papers.

.N.115 .U.C.	1.	Endorsement from the Central Board of Revenue, D.Dis.No.50(15)-I.T./39 dated the 4th November 1939, with enclosures.
.N.116 .U.C.	2.	Circular from the Central Board of Revenue, No.50 of 1939, dated the 4th November 1939.
.N.117 .U.C.	3.	Endorsement from the Central Board of Revenue, D.A.Dis.No. 28(56)-I.T./39 dated the 7th November 1939, with enclosures.

(With 3 spare copies of No.2)

(Sp. copies placed below.)

US 23.11.39

ASR 24.11.39

F.A 4

S.N 115

199

Circular No. 51 of 1939.

R.Dis.No.60(1)-I.T./39.
CENTRAL BOARD OF REVENUE

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
24 NOV. 1939
Diary No. 11,894
File No.

New Delhi, the 7th November 1939.

C I R C U L A R

Companies - Audit of accounts - Section 144 of the Indian Companies Act, 1913.

Under clauses (i), (ii) and (iv) of sub-section (5) of section 144 of the Indian Companies Act, 1913, the following persons cannot be appointed as auditors of a company whether public or private, viz. -(a) Director or officer of the company, (b) a partner of such director or officer and (c) any person indebted to the company. Under clause (iii) of the same sub-section any person in the employment of a public company cannot be its auditor. The word 'officer' is not defined in the Act but it seems to include all employees and also such persons as managers who might not be included in the term 'employee'.

While examining the returns and accounts of companies, Income-tax Officers should take particular care to see whether the auditors on whose certificates they rely are qualified according to the tests mentioned above. They should also be careful to see whether the auditors are connected with the company in any other way either directly or indirectly or are related to the principal shareholders or directors.

15-11-39.
First Secretary, Central Board of Revenue.

All Commissioners of Income-tax.
The Income-tax Adviser to the C.B.R.

SN 120

Circular No. 52 of 1939.

R.Dis. No.28(57)-I.T./39.
CENTRAL BOARD OF REVENUE

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
24 NOV. 1939.
Diary No. 11,893
File No.....

New Delhi, the 8th November 1939.

C I R C U L A R

Return of income- Verification of - Sub-rule (2) of Rule 19.

Attention of all Income-tax Officers is drawn to the recent addition of sub-rule (2) of Rule 19 of the Income-tax Rules which prescribes the persons by whom the declaration in the return of income is to be signed. Returns signed and dated on or after the 7th October 1939 on which date the said sub-rule came into force should be carefully scrutinised to see that they are signed by the proper persons entitled to sign them. In particular, in the case of Hindu Undivided Family the return signed by an adult member before the 7th October 1939 would be valid but it would not be so if signed after that date, as under the said sub-rule it is only the Manager or Karta who is authorised to sign it. The note below the declaration in I.T.11 is being amended with retrospective effect so as to bring it in conformity with the requirements of sub-rule (2) of Rule 19. It is possible that a return submitted on or after the 7th October 1939 may, in the case of a Hindu undivided family, be still signed by an adult member of the family owing to the incorrect instruction in Form I.T. 11. In such a case the Income-tax Officer should give a reasonable opportunity to the assessee for having the verification signed by the Manager or Karta of the family before treating it as an invalid return.

16-11-39
First Secretary, Central Board of Revenue.

All Commissioners of Income-tax,
The Income-tax Adviser to the C.B.R.

F.A.

S.N.-121

201

D.Dis.No.14(18)-I.T./39.

Government of India
FINANCE DEPARTMENT(CENTRAL REVENUES)

New Delhi, the 14th November 1939.

From

R. L. Gupta, Esquire, I. C. S.,
Deputy Secretary to the Government of India,

OFFICE OF THE
[illegible] OF INDIA,
IN MYSORE, BANGALORE.
11.8.39
Diary No. 11,932
File No.

To

All Commissioners of Income-tax.

Sir,

Divisible pool - Emoluments of employees paid from Central Local Funds - Inclusion of in the pool.

I am directed to say that the Government of India have decided in consultation with the Auditor General that emoluments of employees paid from Central Local Funds are not Federal (Central) emoluments within the meaning of section 138(4) of the Government of India Act, 1935 and that income-tax and super-tax on such emoluments should be credited to the heads "Income-tax-Ordinary collections - Other collections" and "Super-tax - Other collections" respectively and should be included in the divisible pool.

I have the honour to be,
Sir,
Your most obedient servant,

16.11.39.

Deputy Secretary to the Government of India.

Copy forwarded to all Civil Accountants General and Comptrollers. for information.

Copy ...

S.N.122

(20)

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 7th December *1939*.

Issued 7/12/39

R.Dis. No. F.31(Coll.II)-39/Judl. Enc.9

A copy of the undermentioned paper is forwarded to the Inspecting Asst. Commr. of Income-tax, Civil and Military Station, Bangalore, for information and guidance.

~~for information,~~ in continuation of / with reference to ~~the correspondence ending with (his)~~

~~Memorandum~~
~~letter from~~
endorsement

~~No. , dated the~~

By order, etc.,

for ~~Asst. Secy.~~ Secretary to the Resident in Mysore.

List of papers.

S.N.119 P.U.C. 1. Circular from the Central Board of Revenue, No.51 of 1939 dated the 7th November 1939.

S.N.120 P.U.C. 2. Circular from the Central Board of Revenue, No.52 of 1939 dated the 8th November 1939.

S.N.121 P.U.C. 3. Letter from the Government of India, Finance Department (Central Revenues), D.Dis.No.14(18)-I.T./39 dated the 14th Nov. 1939.

(With 3 spare copies of 1 and 2.)

(Spare Copies kept below.)

29.11.39

25.11.39

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Circular No. 53 of 1939.

C.No. 42(9)-I.T./39.

Central Board of Revenue.

New Delhi, the 9th November 1939.

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OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE.
30 NOV 1939
Diary No. 12,092
File No.....

CIRCULAR.

Exemptions- Charitable Trusts - Income of - section 4(3)(1).

.....

Please see Cir: 1 of 1945 (File 104/45)

On account of the recent amendment of the law it is necessary that claims for exemption of charitable Trusts should be carefully scrutinised. When a claim is made for the first time, it should be thoroughly investigated, and before the exemption is granted it should be submitted for approval to the Commissioner through the Inspecting Assistant Commissioner. The annual accounts of the Trusts exempted should be obtained year by year to watch any special circumstances or any alterations made in the Trust deed - particularly those alterations which modify its objects. Similarly, if there is a substantial change in the control of a Trust and the Trust property consisted of a large block of investments, this would require careful consideration to make sure that the Trust was not being used for the purpose of avoiding tax. The cases of such charities exempted should be entered in a separate part of the General Index register so that these can be examined by the Inspecting Assistant Commissioner.

All existing exemptions should be investigated also and dealt with on the above lines as the circumstances may have changed since exemption was granted, or under the law as amended the exemption should...

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should be wholly or partially withdrawn.

20.11.39.

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax,

All Appellate Assistant Commissioners of Income-tax,
The Income-tax Adviser to the Board.

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KL.

F.A 24

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SNIZH

/206

Circular No. 24 of 1939.

C.No. 26(36) I.T./39.

Central Board of Revenue.

New Delhi, the 11th November 1939.

.....

CIRCULAR.

Interest paid abroad - Taxability of.

.....

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE. 30 NOV. 1939. Diary No. 12,093 File No.....

N.S.U BD 31/39

Attention is drawn to the fact that under the amended Section 42(1) whether an assessee is a resident in British India or not, his income accruing or arising through or from any business connection in British India or through or from any property in British India or through or from any asset or source of income in British India or through or from any money lent at interest and brought into British India shall be deemed to be income accruing or arising within British India.

Interest on sterling securities issued by English Companies carrying on business in British India (whether such interest is received in British India or not and whether the recipient is resident in British India or not) must be deemed to accrue or arise in British India if the English Companies bring the money, so borrowed, into British India. In making assessments of such English Companies in respect of their income assessable under section 9,10 or 12, care must be taken to see that the interest paid to non-residents on money so borrowed is not allowed as a deduction unless it is interest on loan issued for public subscription before the 1st of April, 1938, or unless tax has been paid or deducted on it or unless there is an agent for the payee.

As.....

207)

As regards Interest on Promissory Notes of the Government of India, even if enfaced for payment outside British India, it accrues in British India, since the right to receive the payment of such interest is in British India. The concession by which Government paper can be enfaced for payment abroad does not constitute any part of the actual contract entered into by Government. Such interest is, therefore, chargeable to tax here without the aid of Section 42(1).

20.11.39

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax,

All Appellate Assistant Commissioners of Income-tax.

The Income-tax Adviser to the Board.

KL.

F.N.24/

S.R.125

(208

Circular No.55 of 1939.
D.Dis.No.4(27)-I.T./39.
CENTRAL BOARD OF REVENUE
New Delhi, the 11th November 1939.

Circular.

Section 4(1) - third proviso - exclusion from assessment of unremitted income to the extent of Rs.4500 - subsequent receipt thereof -.

If profits which have been excluded under the third proviso to section 4(1) are subsequently brought into British India they are, in the opinion of the Board, assessable in the year of receipt under section 4(1)(b)(iii). When, however, any profits which have already been assessed under section 4(1)(b)(ii) read with the third proviso are xxx brought into British India, the amounts so brought in should be presumed to have come first from the assessed profits (i.e. not out of the Rs.4500 exempted), unless there is definite evidence to the contrary, but if the amounts exceed such assessed profits, the excess will be liable to assessment under section 4(1)(b)(iii). For instance if the unremitted foreign income of a person ordinarily resident was Rs.15,000/- and Rs.20,000/- in two consecutive years the assessments on these sums will be on Rs. 10,500/- and Rs.15,500/- respectively. Subsequent remittances out of these profits to the extent of Rs.26,000/- should be deemed to have come out of assessed profits and only the excess remittance over Rs.26,000/- should be taxed under Section 4(1)(b)(iii).

16.11.39.

First Secretary, Central Board of Revenue.

All Commissioners of Income-tax.
All Appellate Assistant Commissioners.
The Income-tax Adviser to the Board.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
30 NOV. 1939
Diary No. 12,094
File No.....

R.S. 31/39

S.1126

209

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,
Bangalore, the 8th December 1939.

Issued.
9/12/39

R.Dis.No. F.31(Coll.II)-39 Judl. Enc 12.

A copy of the undermentioned papers is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and guidance.

By order, etc.,

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

4.12.39

Circulars from the Central Board of Revenue,

S.N.123 No.53 of 1939 dated the 9th November 1939,
S.N.124 No.54 of 1939 dated the 11th November 1939,
S.N.125 No.55 of 1939 dated the 11th November 1939.

(With 3 spare copies of each.)

S. No 127

210

D.A.Dis.No.56(6)-I.T./39.
CENTRAL BOARD OF REVENUE
New Delhi, the 22nd November 1939.

F.A.H
Am N.S.V.

From

R. L. Gupta, Esquire, I.C.S.,

First Secretary, Central Board of Revenue,

To

All Commissioners of Income-tax

(except Commissioner of Income-tax, Bombay).

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
6 DEC 1939
Diary No. 12,301
File No. 8231/39

Sir,

Non-residents - Records of - Transfer of to the Non-Residents Refund Circle, Bombay - Instructions to Income-tax Officers -.

I am directed to enclose an extract of a letter No.Misc.320 of 1939-40, dated the 28th August 1939 from the Officer in Charge, Non-Residents Refund Circle, Bombay to the Commissioner of Income-tax, Bombay and to request that suitable instructions on the subject may be issued to the Income-tax Officers in your province.

I have the honour to be,
Sir,
Your most obedient servant,

R L Gupta 22.11.39

First Secretary, Central Board of Revenue.

Copy forwarded to the Commissioner of Income-tax, Bombay, with reference to his letter No.Adm.404/39, dated the 19th October 1939.

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27/11.

Extract of a letter No. Misc.320 of 1939-40, dated the 28th August 1939 from the Officer in Charge, Non-Residents Refund Circle, Bombay to the Commissioner of Income-tax, Bombay.

After the passing of the Amended Act several cases have come to notice in which other Income-tax Officers have forwarded case-files of certain parties to this office without having previously verified that they are actually not "residents" within the meaning of sec.4A of the Amended Act. It will be noticed that under this Section many individuals who used to be treated previously as "non-residents" (merely because they happen to reside, at the time of applying for refund, outside British India) may, hereafter, have to be treated as "residents" or "ordinarily residents" as the case may be, even if they happen to reside outside British India for even 6 months of the year, provided they satisfy one or other of the conditions prescribed in Sec.4A, in the case of residents, or do not satisfy all the conditions prescribed in Sec.4B, in the case of ordinarily residents. A usual type of case where it has been noticed this kind of mistake has been made by I.T.Os. is in that of Government servants or Commercial employees who retire from service and leave British India in the course of a year; in such cases the party will, ordinarily have been resident in British India for a total period of 365 days or more during the preceding four years, or for a period of 182 days or more during that year, in either of which cases he or she should be treated as a "resident", and possibly as an ordinarily resident if he or she does not fulfil all the

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conditions of sec.4B. We have had to return several case-files for these reasons since 1st April 39.

The question involved here is not exclusively one regarding the particular I.T.O. who should do the work; the more important aspect of the matter is that, in case a party is actually to be treated as a "resident" or "ordinarily resident," he or she would normally be assessable to more income-tax than if he or she were, wrongly, treated as a "non-resident". This is particularly so in the case of individuals who describe themselves as subjects of Indian States: under the Amended Act, they are liable to pay British Indian income-tax on their business and profession incomes arising in Indian States, unless their "non-resident" status can be clearly established.

It seems desirable, therefore, to issue instructions to other I.T.Os. in this Presidency on this subject in order to avoid unnecessary correspondence between this Circle and theirs in cases where it must be quite clear that the parties concerned are not "non-residents".

S.N.128

(213)

Circular No. 57 of 1939.

C.No.4(26)-I.T./39.

CENTRAL BOARD OF REVENUE.

New Delhi, the 22nd November 1939.

....

Circular.

Indian Income-tax Act, 1922 - Section 34(2) - Time limit - Applicability of, to assessments under section 23. Circular No.39 of 1939/R.Dis.No. 31(21)I.T./39, dated 7th September 1939.

S.N.56 c.f. 80 (Q)

The time limit laid down in sub-section (2) of section 34 of the Act is equally applicable to proceedings under section 23 which were started in earlier years but could not, for any reason, be completed before the Amendment Act came into force on 1st April 1939.

28.11.39

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

All Appellate Assistant Commissioners of Income-tax.

The Income-tax Adviser to the Central Board of Revenue.

R.27/11.

S.N. 12-9

214

Circular No. 56 of 1939.

C.No. 4(29)- I.T./39.

CENTRAL BOARD OF REVENUE.

New Delhi, the 17th November 1939.

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93/39

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
6 DEC. 1939
Diary No. 12,332
File No.

Circular.

Section 15(1) and 17 - Computation of net tax payable - Income just above the minimum not liable to tax.

In a marginal case where the 'total income' is just above Rs. 2,000/-, and the tax falls to be determined under the proviso to paragraph A, Part I of schedule II of the Indian Finance Act, 1939, the tax due is restricted to half the amount by which the total income exceeds Rs. 2,000/-. This limitation is a part of the general scale and is different from the marginal relief granted under the old section 17. Relief under section 15 is, therefore, due over and above this and should be computed at the average rate of tax to be calculated by dividing the net tax (restricted to half the excess over Rs. 2,000/-) by the total income. Similarly if the 'total income' in such a case includes any income exempted from tax or a share in an unregistered firm already assessed, the proportionate tax payable by the assessee will be computed as laid down in section 17(2). The same method holds good in a case where the 'total world income' falls within

such....

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such a marginal zone and the proportionate tax is chargeable on 'total income' under section 17(1).

24.11.35

First Secretary, Central Board of Revenue.

To

All Commissioners of
Income-tax.

All Appellate Assistant
Commissioners of Income-tax.

Income-tax Adviser to the Board.

S.N.130

(216

Draft I

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 14th December 1939.

R.Dis.No. F.31(Coll.II)-39 Judl.

Issued 14/12/39

A copy of the undermentioned paper is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and necessary action.

By order, etc.,

O/C

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

9.12.39

Letter from the Central Board of Revenue, D.A.Dis. No.56(6)-I.T./39 dated the 22nd November 1939, with enclosure.

S.N.127
P.U.C.

(Sp. copy placed below)

Draft II

131

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THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 14th December 1939.

Issued 14/12/39

R.Dis.No. F.31(Coll.II)-39 Encl.
Judl.

A copy of the undermentioned paper is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and guidance, with reference to endorsement from this Residency R.Dis.No.F.31(Coll.II)-39/Judl., dated the 26th September 1939.

S.N.57
c.p.81
'Q'

By order, etc.,

for SECRETARY TO THE RESIDENT
COMMISSIONER OF INCOME-TAX

9.12.39

S.N.128
P.U.C.

Circular from the Central Board of Revenue,
No.57 of 1939 dated the 22nd November 1939.

(With 3 spare copies)

Draft III

S.A. 132

219

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE

Bangalore, the 14th December 1939.

R.Dis.No. F.31(Coll.II)-39 Judl. Enc 4.

14/12/39

A copy of the undermentioned paper is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and guidance.

By order, etc.,

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

9.12.39

S.N.129
P.U.C.

Circular from the Central Board of Revenue, No.56 of 1939 dated the 17th November 1939.

(With 3 spare copies.)

S-N 133

219

F.A. 11/12/39

3A 31/39

Circular No.58 of 1939.

R.Dis.No.58(2)-I.T./39.

CENTRAL BOARD OF REVENUE.

New Delhi, the 22nd November 1939.

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE.
Diary No. 12,569
File No.

CIRCULAR.

Penalties, Prosecutions and compositions - Sections 51,52 and 53 of the Income-tax Act - Applicability of the provisions of the Indian Penal Code - Instructions regarding.

The Board has consulted the Government of India on certain legal questions relating to sections 23, 37,51, and 52 of the Income-tax Act, as a result of which the following general instructions are issued:

It is not necessary to invoke section 37 of the Income-tax Act every time it is desired to examine an assessee or his representative on oath. The terms of section 23 of the Income-tax Act and of sections 4 and 5 of the Indian Oaths Act are sufficient authority to an Income-tax Officer to administer an oath or affirmation as the case may be and examine an assessee or his representative when he appears in response to a notice under sub-section (2) of section 23 of the Income-tax Act. Any false statement made at that time will be punishable under section 181,191 or 193 of the Indian Penal Code. But as a notice under sub-section (4) of section 22 of the Income-tax Act confers authority on the Income-tax Officer only to require the production of accounts and documents, sections 4 and 5 of the Indian Oaths Act would not apply, and if, when a party appears in response to such a notice, the Income-tax Officer considers it necessary at that stage to examine the person on oath and take down a binding statement, a notice under section 37 of the Income-tax

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Act should be served on him before the actual examination is made. But any false account or fabricated document produced before an Income-tax Officer in response to a notice issued either under sub-section (4) of section 22 or sub-section (2) of section 23 is punishable under sections 192, 193 and 196 of the Indian Penal Code as all proceedings under Chapter IV of the Income-tax Act are "judicial proceedings" by virtue of section 37. But it should be noted that the powers conferred on Income-tax authorities under this section can be used only in respect of proceedings under this chapter and not under any other chapter. For instance, in the preliminary proceedings under section 51 or 52 of the Income-tax Act, nobody can be summoned under section 37.

2. Section 52 of the Income-tax Act as recently amended makes false verifications and false returns offences under the Act itself, and it is, therefore, no longer necessary to invoke the provisions of section 177 or 182 of the Indian Penal Code in such cases. Though there is no legal bar to charging an offender both under the Income-tax Act and under the Penal Code, the Board desires that ordinarily a person should be charged under the Income-tax Act only, but this does not apply to offences committed before the 1st April 1939, in respect of which prosecution should be started under section 52 as it stood before the amendment read with section 177 or 182 of the Indian Penal Code. The Board is advised that section 197 Indian Penal Code is not applicable to false verifications in Income-tax returns.

3. The Board desires to draw the attention of all Income-tax authorities to the fact that section 53 empowering an Inspecting Assistant Commissioner to compound an offence, either before or after the ins-

titution of proceedings, has application only to the offences referred to under sections 51 and 52 of the Income-tax Act. But in many cases assessees who file returns support them by false false evidence or fabricated accounts, and the departmental practice has been to ask the parties to show cause against prosecution under Sections 51 & 52 of the I. T. Act and under sections 177, 182, 191, 192, 193 or 196 of the Indian Penal Code; and where a reasonable offer of composition is made, the Assistant Commissioner used to sanction the composition of all the offences at the same time, irrespective of the fact that offences under sections ~~175~~ 51 and ~~182~~ 52 of the ~~Indian Penal Code~~ I. T. Act are compoundable but not the others. Though this practice has come to the notice of law courts and has not been animadverted upon, the Board is now advised that this procedure is illegal, and would attract the provisions of sections 213 and 214 of the Indian Penal Code. The Board therefore directs that in future Income-tax authorities should make a clear distinction between the comparatively minor offences ~~referred to in~~ under section 51 punishable with a fine ~~or with imprisonment~~ and under section 52 punishable with ~~simple~~ imprisonment or with a fine or with both, and the major offence of giving or producing or using false evidence or fabricated evidence coming under section 191, 192, 193 or 196 of the Indian Penal Code in which a punishment of imprisonment must be awarded in case of proved guilt, with or without a fine. Where there is a prime facie case supported by adequate evidence for initiating proceedings for the major offence, it is the obvious duty of public officers to proceed accordingly and in such cases no attempt should be made by local officers to invite parties to make an offer for composition. In most such cases, the person concerned would also be guilty of filing a false return punishable under section 52 of the Income-tax

Act. But there is no point in compounding a minor offence while taking the major offence to Court, nor will it give any advantage to the party. Cases in which there is proper material for taking action under sections 191,192 and 193 should, therefore, be properly sifted by the local officers and submitted to the Income-tax Adviser through the usual channel even without the issue of the preliminary notice to the party to show cause. When finally a prosecution is initiated in such a case, the prosecution must be both for the filing of false returns as well as for the production of false or fabricated evidence. The procedure prescribed by sections 195 and 476 of the Criminal Procedure Code should, of course, be followed before the case is actually sent up to Magistrate. But in cases where there is clear evidence of an offence under section 52 but only a suspicion of filing false accounts or other fabricated evidence, the preliminary notice issued by the Inspecting Assistant Commissioner should confine itself only to the offence under section 52 of the Income-tax Act.

4. The sanction of the Inspecting Assistant Commissioner has been prescribed only for prosecutions under section 51 or 52 of the Income-tax Act, but no such sanction is legally necessary for prosecuting offenders under section 182,191,192,193 or 196 of the Indian Penal Code as under section 195 of the Criminal Procedure Code, only the sanction of the Court or authority, before which the offence was committed, is necessary. But the departmental practice has been that no prosecutions are started without getting the approval of the Assistant Commissioner, and the Board desires that this practice should continue to be

followed, and that the actual sanction should be accorded in each case by the Inspecting Assistant Commissioner, who will, of course, take the orders of the Income-tax Adviser through the Commissioner.

5. Sub-section (1) of section 53 of the Income-tax Act provides that a person shall not be proceeded against for an offence under section 51 or 52 except at the instance of the Inspecting Assistant Commissioner but the actual practice in the matter of filing complaints varies in different provinces. In some places the complaints are filed by the Assistant Commissioners themselves, but in others by the Income-tax Officer, after getting the sanction of the Assistant Commissioner. To avoid possible questions about the legality of the proceedings the Board directs that, in future, the written complaint should always be made by the Inspecting Assistant Commissioner, though the actual conduct of the prosecution may be left to the local Income-tax Officer. Under section 200 proviso (a) of the Criminal Procedure Code the Magistrate will not require the examination of the complainant.

6. Commissioners are requested to arrange for the supply to all Income-tax Officers of copies (without commentary) of the Indian Penal Code & the Criminal Procedure Code.

28.11.39.

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

The Income-tax Adviser to the Central Board of Revenue.

IS&
27.11.39.

F.A.W. Ja 11/12 S.N. [illegible] (22)

C.No.35(18)-I.T/39.

CENTRAL BOARD OF REVENUE.

New Delhi, the 2nd December, 1939.

From

R.L. Gupta, Esquire, I.C.S.,
First Secretary, Central Board of Revenue.

To

The Commissioners of Income-tax,
Major Provinces.

COPY OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE.
12,4693 Dec. 1939
Diary No. 12,595
File No.....

Government of India Act, 1935 - Section 272 - Pension payable to persons residing permanently outside India - Computation of rate of tax under section 17(1).

I am directed to say that a question has arisen whether pensions exempted from income-tax under section 272 of the Government of India Act, 1935 should be taken into account in determining the rate of tax under section 17(1) of the Income-tax Act, 1922. The point is not free from doubt and the Board proposes to make it the subject of a reference to the High Court when a suitable opportunity arises. In the meantime such pensions should not be taken into account for the purposes of section 17(1) of the Act.

2. I am to request that a suitable case on the point may be reported to the Board to enable a reference to be made to the High Court.

I have the honour to be,
Sir,
Your most obedient servant,

R.L. Gupta 4.12.39

First Secretary, Central Board of Revenue.

Copy forwarded to the other Commissioners of Income-tax, the Appellate Assistant Commissioners of Income-tax, and the Income-tax Adviser to the Central Board of Revenue.

By order, etc.,

R.L. Gupta

First Secretary, Central Board of Revenue.

FW.1 2[illegible]

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 19th December 1939.

Issued 19/12/39

R.Dis.No. F.31(Coll.II)-39 Enc. 5
Judl.

A copy of the undermentioned papers is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and guidance.

By order, etc.,

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

16.12.39.

- - -

1. Circular from the Central Board of Revenue, No.58 of 1939 dated the 22nd November 1939.

2. Endorsement from the Central Board of Revenue, C.No. 35(18)-I.T/39 dated the 2nd December 1939, with enclosure.

(With 3 spare copies of No.1)

Fn. 136

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D.Dis.No.28(20)-I.T./39.

CENTRAL BOARD OF REVENUE

New Delhi, the 22nd November 1939.

From

R. L. Gupta, Esquire, I. C. S.,
First Secretary, Central Board of Revenue,

To

All Commissioners of Income-tax,

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
9 DEC 1939
Diary No. 12,260
File No.

Sir,

Forms - Form authorising a representative to appear in income-tax proceedings under section 61 - I.T.103 - Cancellation of.

I am directed to invite a reference to the concluding sentence of paragraph 1 of Board's letter C.No. 28(20)-I.T./39, dated the 6th October 1939 and to say that the Controller of Printing and Stationery has sanctioned the cancellation of form I.T. 103 from the I.T. series.

I have the honour to be,
Sir,
Your most obedient servant,

29.11.39

First Secretary, Central Board of Revenue.

Copy forwarded to the Income-tax Adviser to the Central Board of Revenue.

FA-Ur

BD 31/39

New — for 1941-42 Sr 137

(227)

C.No.43(6)-I.T./39.
CENTRAL BOARD OF REVENUE
New Delhi, the 2nd December 1939.

From

R. L. Gupta, Esquire, I.C.S.,
First Secretary, Central Board of Revenue,

To

All Commissioners of Income-tax.

OFFICE OF THE
H.M.B.E THE RESIDENT
IN MYSORE, BANGALORE.
Diary No. 12,650
File No.

Sir,

Burma - Separation of - Dividends declared in 1936-37 - Refunds - Payments in India - Recovery of, from Burma.

I am directed to invite a reference to Mr. Sheehy's letter No.489-I.T./37, dated the 1st March 1937 on the subject indicated above and to say that the Secretary of State has decided that the Government of Burma should bear the cost of refunds on dividends declared before separation out of the profits assessed in Burma after separation. The Government of India have now to recover from the Government of Burma the amount incurred by them on this account. I am accordingly to request that a statement of these refunds granted in your province both to non-residents and to residents in British India should be furnished to the Board at a very early date. Refunds granted to residents on duplicate certificates should be shown separately.

I have the honour to be,

Sir,

Your most obedient servant,

R. L. Gupta
5.12.39.

First Secretary, Central Board of Revenue.

MH
4/12.

C.No.XIII-2/39.

CENTRAL BOARD OF REVENUE.

New Delhi, the 8th December 1939.

From

R.L. Gupta, Esquire, I.C.S.,
First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
Received on 20 DEC. 1939
Diary No. 12,951
File No.

Sir,

Centralisation and Mechanisation of Statistical Work - Experiment on.

The Government of India have decided that the Income-tax Statistical work is to be centralised with effect from the 1st April, 1940, and that the compilation of All-India Statistics and Returns will be made mostly by mechanical process. It is not necessary at this stage to explain all the details of the scheme which will be circulated later. The Board, however desires, that the experimental and other preliminary work should be commenced on the 1st February 1940.

The most important datum on which the scheme will be based is the revised form I.T.30 which will be introduced with effect from the 1st April, 1940. A specimen of the proposed form is attached.

This form will be used after 1st April, 1940 for original assessments, revised assessments under section 27, assessments under section 34, revision of assessments in conformity with appellate orders or orders of Commissioners of Income-tax or of the Tribunal etc., for refunds under sections 48 and 49, for all other descriptions of double income-tax reliefs for rectification of assessments under section 35, for imposition of penalties under sections 25(2), 28, 44E, 44F and 46(1) and also for compositions under section 53(2).

The proposed..

229)

The proposed scheme requires that whenever action of the nature described above is taken a copy of the proposed form will be made in the Income-tax Officer's office and sent to the Board. The blank perpendicular column in the proposed form from the top down to the middle is meant for statistical numbers to be assigned to the various items and will be completed in the Board's office.

The present form I.T.30. does not contain all the items which will appear in the proposed form but the present form will serve the purpose of experimental work.

The Board desires that with effect from the 16th January 1940 copies of all the present forms I.T.30, in respect of any action of the nature mentioned above, should be prepared and sent to the Board in fortnightly batches. The first batch should contain copies of all the forms filled in on or after the 1st January 1940, the second batch will contain copies of similar forms filled in between the 16th January and the 31st January 1940 (inclusive), and so on, upto the 31st March 1940. Copies of the forms may be sent through the Inspecting Assistant Commissioner. A record should be kept of the number of copies sent, so as to facilitate reconciliation.

It is to be particularly noted that the present system of maintenance of the statistical registers must continue up to the 31st March 1940, as the statistical returns on the working of the year 1939-40 will be prepared according to the existing system.

I have the honour to be,

Sir,

Your most obedient servant,

First Secretary, Central Board of Revenue.

11-12.39.

GDB.
9/12.

Serial No:

ASSESSMENT FORM.
REFUND

(250)

Assessment year.....
Section under which assessment or refund is made.....
District or Circle.....
Inspecting Assistant Commissioner's charge.....
Province.....
G.I.R.Number.....
Name of Assessee.....
Address.....
Status.....

Detailed sources of income.	Amount of income or loss of the year under assessment.	Amount of loss (Sec.10) of earlier years set off+	Resultant income	Tax already deducted or otherwise paid at source. Income tax. Rs. A.	Super tax. Rs. A.	Remarks
A. Income accruing, arising or received in British India -						
Sec.7-Salaries Central Government / Others						
Sec.8-Interest on Securities tax-free / taxed.						
Sec.9-Property						
Sec.10-Business, profession or vocation (Give description of trade profession etc., below) ---------- ---------- ---------- ---------- ----------						
Share of profits from unregistered firm (taxed).....						
Share of profit from Association of persons (taxed).....						
Partnership profit from registered firm charged to tax in the hands of the firm under the second proviso to section 23 (5)(a).....						
Sec.12-Other sources.....						
Dividend.....						
Interest or other sums received under deduction of tax.....						
Others.....						
Total of incomes under A.						

(Continued)

B. Income accruing or arising abroad-	
Assessed on remittance basis.....	
Assessed on arising basis.	
Business, profession or vocation.....	
Others.....	
Total income.	
Adjustments to total income to arrive at total world income (Give details)-	
Total World Income.	

Gross income-tax and super-tax chargeable on total income

Gross income-tax and super-tax computed on total world income.....

Average rate of income-tax .... pies in the Rupee.....

Sums included in total income in respect of which income-tax is not payable:-

(a) Under section 7(1) or on account of a provident fund to which the Provident Funds Act, 1925 applies.....	
(b) On account of recognized provident and Superannuation funds.....	
(c) On account of Insurance Premia.....	
(d) Share from Association of Persons or from unregistered firm on the profit of which tax has already been paid or partnership profit from registered firm charged to tax in the hands of the firm under second proviso to section 23(5)(a).....	
(e) Interest from tax-free securities of the Central Government or of a Provincial Government.....	
Total amount upon which relief is due and income-tax thereon.....	

(Continued).

1232

Deduct - Income-tax and super-tax deducted or otherwise paid at source.....

Double income-tax relief under section 49.....
Indian State(...).....
Burma.....
Ceylon.....
Aden.....

Amount of tax paid in Mysore State.....
Civil & Military station Bangalore.....

Income-tax and super-tax paid per original assessment.....

Net amount of income-tax and super-tax payable.....
refundable.....

Penalties under sections 25(2),28,44E,44F and 46(1)....

Composition under section 53(2).....

Total sum payable / refundable (in figures).....

In words - Rupees.

Annas.

Date.

INCOME TAX OFFICER.

I.T.30. + The year of loss should be shown in the Remarks column.

GDB.
9/12.

Cr. 139/237

F. A 4

1931/39

Copy of the reply No.III-140/39 dated 9th December '39 sent to the C.I.T., Punjab, N.W.F and Delhi Provinces.

My dear Shearer,

Penalties, compositions and prosecutions - Imposition of penalties - Sections 23(3) and 23(4) - Exceptions.
Your letter No.4468 dated 24. 11. 1939.

No penalty should be levied. See in this connection para 8 of Circular No.37 of 1939.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
20 DEC. 1939
Diary No. 12,952
File No.

Yours sincerely,

Sd. S.P. Chambers.

Copy communicated to all the Commissioners of Income-tax.

For Income-tax Adviser.

Copy of letter No.4468 dated 24th November 1939 from the Commissioner of Income-tax, N.W.F. and Delhi Provinces.

Penalties - Section 23(3) and section 23(4) - Exceptions.

Sir,

I have the honour to invite a reference to paragraph 3(a) of the Board's circular No.37 dated the 1st September 1939, in which it was stated that penalties should not be imposed in connection with section 23(4) assessments where the income does not exceed Rs.5,000/- and the assessee is believed to keep no reliable accounts. It has been brought to my notice that these instructions do not cover the case of an assessee who submits a return and is therefore assessed under section 23(3), but is liable to a penalty under section 28 because the return is not furnished within the time allowed or in the manner required by the notice. It is arguable that such an assessee by submitting a return creates a presumption that he is not wholly illiterate or incapable of complying with the requirements of the department, but on the other hand it seems unreasonable that he should be worse off than he would have been if he had submitted no return at all. I should be glad to know whether you agree that in such cases also no penalty should ordinarily be imposed if the conditions prescribed in respect of section 23(4) assessments appear to be satisfied.

I have etc.,

Sd. J.B. Shearer,

Commissioner of Income-tax,

Punjab, N.W.F. and Delhi Provi

Circ 28/12

For 140

235

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 26th December 1939.

Issued 26/12/39

R.Dis.No. F.31(Coll.II)-39 Circ
Judl.

A copy of the undermentioned paper is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information with reference to endorsement from this Residency R.Dis.No.F.31(Coll.II)-39/Judl., dated the 31st October 1939.

S.N.101
(1)

By order, etc.,

S/c R 28/12/39

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

Cls
22.12.39

22/12

Letter from the Central Board of Revenue, D.Dis. No.28(20)-I.T./39 dated the 22nd November 1939.

S.N.136
P.U.C

(Sp. copy below).

236

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 28th December 1939.

Issued
ICG
28/12/39.

R.Dis.No. F.31(Coll.II)-39
Judl.

A copy of the undermentioned papers is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and necessary action.

By order, etc.,

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

S.N.137 P.U.C. 1. Letter from the Central Board of Revenue C.No.43(6)-I.T./39 dated the 2nd December 1939.

S.N.138 P.U.C. 2. Letter from the Central Board of Revenue C.No.XIII-2/39 dated the 8th December 1939, with enclosure.

S.N.139. P.U.C. 3. Endorsement from the Income-tax Adviser to the Central Board of Revenue No.III-140/39 dated the 12th December 1939, with enclosures.

(Sp. copies of S.N.137 and 138 placed below.)

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
26 DEC. 1939
Diary No. 13195
File No.....

C.No.43(6)-I.T./39.

CENTRAL BOARD OF REVENUE.

New Delhi, the 22nd December 1939.

.....

EXPRESS LETTER.

From

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax,

.....

Please refer to the Board's letter C.No.43(6) I.T./39, dated the 2nd December 1939. India Office require the amount of refunds granted in India on dividends declared before separation out of the profits assessed in Burma after separation for insertion in a draft Order-in-Council. The matter should therefore be treated as very urgent and the statement of refunds asked for in the letter referred to above should be expedited so as to reach the Board by the 5th January at the latest.

K. B. D-3

for First Secretary, Central Board of Revenue.

IGA.

143

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VERY URGENT.

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 29th December 1939.

Secret
29/12/39

R.Dis.No.F.31(Coll.II)-39
Judl.

A copy of the undermentioned paper is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for necessary action, with reference to endorsement from this Residency R.Dis.No.F.31(Coll.II-39/Judl., dated the 28th December 1939. A very urgent reply is requested.

S.N.141
~~140~~
'Q'

By order, etc.,

o/c 29.12.39

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

29.12.39

- - -

S.N.142
P U C

Express letter from the Central Board of Revenue, C.No. 43(6)-I.T./39 dated the 22nd December 1939.

S.N 144

215

I.T.A. 161

Office of the Inspeeting Asst. Commissioner
of Income-tax,

Civil and Military Station, 29th Dec.1939.

Very Urgent

From

The Inspecting Asst. Commissioner of Income-tax,
Civil and Military Station, Bangalore.

To

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
30 DEC. 1939
Diary No. 13,223 Sit
File No.....

The Secretary to the Resident in Mysore,
& Commissioner of Income-tax,
Civil and Military Station, Bangalore.

S.N. 141 (Q.)

Burma - Separation of - Dividends declared in 1936-37 - Refunds - Payments in India - Recovery of , from Burma - Your endorsement R. Dis.No.F.31(Coll.II)-39/Judl dated the 28th December 1939.

I have the honour to state that no refund was granted in C. & M. Station on dividends declared before separation out of profits assessed in Burma after separation to either residents or non-residents.

I have the honour to be,
Sir,
Your most obedient servant,

For Inspecting Asst. Commr of
Income-tax.

S.N. 145

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The reply to this communication should be addressed to the Secretary to the Resident in Mysore, Bangalore, by designation and not by name.

R. Dis. No. F. 31(Coll.II)-39
Judl.

FROM

Issued 30/12/39.

THE SECRETARY TO THE HON'BLE THE RESIDENT IN MYSORE.
and COMMISSIONER of INCOME-TAX.

To

The First Secretary,
Central Board of Revenue,
New Delhi.

Dated Bangalore, the 30th Dec. *1939.*

Burma - Separation of - Dividends declared in 1936-37-
Refunds - Payments in India - Recovery of, from Burma.

SIR,

S. N. 137 Q.

I have the honour to refer to your letter C.No.43(6)-I.T/39, dated the 2nd December 1939.

No refund was granted in the Civil and Military Station of Bangalore on dividends declared before separation out of profits assessed in Burma after separation to either residents or non-residents.

I have the honour to be,
Sir,
Your most obedient servant,

(illegible)

For Secretary to the Resident
and
Commissioner of Income-tax

30/12/39

30/12

Urgent.

C.No.40(6)-I.T./39.

CENTRAL BOARD OF REVENUE

New Delhi, the 12th December 1939.

From

R. L. Gupta, Esquire, I.C.S.,
First Secretary, Central Board of Revenue,

To

All Commissioners of Income-tax,

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
22/12 21 DEC. 1939
Diary No. 12,989.
File No.

Sir,

Forms - I.T.23(Revised) -
Corrections to -.

I am directed to invite a reference to the revised form I.T.23 (a copy of which has been forwarded to you with Board's Memorandum of Instructions No.40(6)-I.T./39, dated the 25th September 1939) and to request that the entries in item 14 thereof may be re-lettered as under:-

(a) Central Government
(b) On interest on securities
(c) On dividends
(d) To Companies

Other description of refunds:-

(e) Under section 48
(f) Under section 49
(g) Under arrangement with Indian States
(h) Under arrangement with Ceylon, Burma and Aden Governments
(i) Other Refunds*

* To C.I.T., Assam only.

2.* This disposes of your letter No. 4/R-104 of 1939-40, dated the 30th November 1939.

I have the honour to be,

Sir,

Your most obedient servant,

14.12.

First Secretary, Central Board of Revenue.

MH
14/12.

D.Dis.No. 28(56)-I.T./39.

CENTRAL BOARD OF REVENUE

New Delhi, the 9th December 1939.

From

R. L. Gupta, Esquire, I. C. S.,
First Secretary, Central Board of Revenue,

OFFICE OF THE
HOUSE THE RESIDENT
MYSORE, BANGALORE
21 DEC. 193
Diary No. 12,990
File No.

The Appellate Assistant Commissioner of Income-tax,
Patna Range, Patna.

Sir,

Appeals - Prescribed forms - Admissibility of appeals filed in old forms.

With reference to your letter No. 705, dated the 3rd November 1939, on the above subject, I am directed to refer you to Board's endorsement D.A.Dis. No. 28(56)-I.T./39, dated the 7th November 1939 and to say that all appeals should now be filed in the new forms prescribed by Rules 21 and 22 of the Indian Income-tax Rules. Appeals received in your office should therefore be scrutinised to see whether they are in the prescribed forms (i.e. the revised forms) and if they are not, they should be returned as defective appeals with form I.T. 102 along with a copy of the revised form. In the case of appeals already received in obsolete forms the appellant should be given at the time of hearing of the appeal an opportunity to fill in the proper form and to verify it in the prescribed manner. Care should be taken to see that this is not overlooked

in ...

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in any important cases likely to be taken further especially as in view of the wording of section 30(3) of the Act if the appeal is not in the prescribed form and verified in the prescribed manner, an assessee can successfully evade prosecution under section 52 for a false statement in that verification.

2. No action is however necessary in respect of cases where appeals in old forms have already been admitted and disposed of.

I have the honour to be,

Sir,

Your most obedient servant,

13.12.39,

First Secretary, Central Board of Revenue.

Copy with a copy of the letter under reply forwarded to -

Other Appellate Assistant Commissioners of Income-tax,

All Commissioners of Income-tax with the request that instructions may be issued to the Income-tax Officers to see that only revised forms of appeals are now supplied to the assessees.

The Income-tax Adviser to the Central Board of Revenue.

By order, etc.,

13.12.39

First Secretary, Central Board of Revenue.

Copy of letter No. 705, dated the 3rd November 1939, from the Appellate Assistant Commissioner of Income-tax, Patna Range, Patna, to the First Secretary, Central Board of Revenue, Delhi.

Appeals - Old and new forms I.T. 16 - Admissibility of appeals filed in old forms.

I have the honour to state that a large number of appeals relating to assessments of 1939-40 are being filed this year in the old form I.T. 16, as the new forms were printed on 14-6-1939 and supplied on 27-7-39. In the beginning these appeal petitions were admitted in view of the late printing of the forms. But even now some appeals against orders under section 23(3) are being filed in old forms. (For appeals against orders under section 23(4) of course new forms are being used).

2. I beg to enquire whether it will be in order if these appeal petitions are to be treated as having been filed in the prescribed form during this transition period.

Sw. 145

R.Dis.No.58(1)-I.T./39.

CENTRAL BOARD OF REVENUE.

New Delhi, the 12th December 1939.

.....

From

R.L. Gupta, Esquire, I.C.S.,

First Secretary, Central Board of Revenue,

To

All Commissioners of Income-tax.

Sir,

Penalties in connection with assessments under section 23(4) - Dates for submission of quarterly returns.

.....

I am directed to invite a reference to paragraph 4 of Board's Circular No. 37 of 1939 R.Dis.No.58(1)-I.T./39 dated the 1st September 1939, on the above subject, and to say that the dates for submission of quarterly returns mentioned therein are the dates on which Income-tax Officers should despatch their returns to the Inspecting Assistant Commissioners. The returns should be despatched to the Income-tax Adviser by the Commissioners of Income-tax not later than the 15th January, 15th April, 15th July and 15th October each year.

() C.I.T. Assam only.

(2. This disposes of your letter No.124/C-2 of 1939-40 dated the 30th November 1939.)

I have the honour to be,

Sir,

Your most obedient servant,

15.12.39.

First Secretary, Central Board of Revenue.

Copy.....

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE.
23 DEC. 1939
Diary No. 13096
File No. R.A.31/39

(247)

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,
Bangalore, the 6th January 1940.

Issued 6/1/40

R.Dis.No.F.31-39(Coll.II) Judl.

A copy of the undermentioned paper is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for necessary action, with reference to endorsement from this Residency R.Dis.No.F.31(Coll.II) 39/Judl., dated the 11th October 1939.

By order, etc.,

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

5.1.40

5.1.40

Letter from the Central Board of Revenue C.No.40(6)-I.T./ dated the 12th December 1939.

Gw 15

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THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 6th January 1940.

Issue
6/1
Issued
6/1/40

R.Dis.No. F.31(Coll.II)-39 Encl
Judl.

A copy of the undermentioned paper is forwarded to the Inspecting Assistant Commissioner of Income-tax. Civil and Military Station, Bangalore, for necessary action, with reference to endorsement from this Residency R.Dis.No.F.31(Coll.II)-39/ Judl., dated the 29th November 1939.

By order, etc.,

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

- - -

5.1.40

5.1.40

Gw 157

Endorsement from the Central Board of Revenue D.Dis.No.28(56 I.T./39 dated the 9th December 1939, with enclosures.

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,
Bangalore, the 6th January 1940.

R.Dis.No. F.31(Coll.II)-39/Judl.

A copy of the undermentioned paper is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information, with reference to endorsement from this Residency R.Dis.No.F.31(Coll.II)-39/Judl., dated the 28th September 1939.

By order, etc.,

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

Letter from the Central Board of Revenue, R.Dis.No.58(1)-I.T./39 dated the 12th December 1939.

Sec 1152

1230

D.Dis.No.27(20)-I.T./39.

Central Board of Revenue.

New Delhi, the 9th December 1939.

From

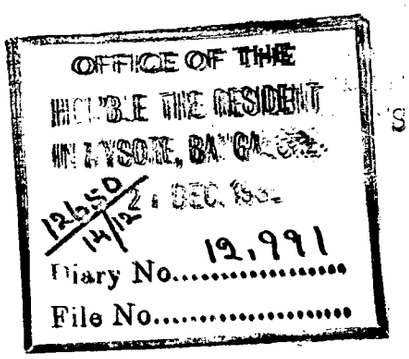
R.L. Gupta, Esquire, I.C.S.,

First Secretary, Central Board of Revenue,

To

The Commissioner of Income-tax,

Madras.



Sir,

Allowances in assessing business income - National Defence Contribution paid to British Government - Admissibility of .

With reference to your letter No.1107/39, dated the 30th November 1939, I am directed to say that the payment made on account of the National Defence contribution in the United Kingdom is not a permissible deduction under the Indian Income-tax Act. Messrs. Aspinwall and Company may be informed accordingly.

I have the honour to be,

Sir,

Your most obedient servant,

13.12.39

First Secretary, Central Board of Revenue.

Copy forwarded to

Other Commissioners of Income-tax,

The Appellate Assistant Commissioners of Income-tax.....

Income-tax, and

The Income-tax Adviser to the Board.

By order, etc.,

First Secretary, Central Board of Revenue. 13.12.39

KL.
11/12/

CIRCULAR NO. 59 OF 1939.

R.Dis.No.56(10)-I.T./39.

CENTRAL BOARD OF REVENUE.

New Delhi, the 14th December 1939.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
23 DEC. 1939
Diary No. 13097
File No. PD 31/39

CIRCULAR.

Deduction of tax at source - Non-residents - Payment of interest or any other sums chargeable - Section 18 (3A)

Section 18(3A) requires any person responsible for paying to a non-resident interest or any other sum chargeable under the provisions of Income-tax Act, to deduct income-tax at the maximum rate unless he is himself liable to pay income-tax thereon as an agent of the non-resident. To comply with the requirement of this provision, Banks and other concerns which have to make a large number of such payments, have ordinarily to rely upon the address furnished to them by their constituents and noted in their books for the purpose of determining whether the payee is resident or non-resident. Where, however, a payer is in doubt and asks the Income-tax Officer for assistance, the latter should, having regard to the assessment record of the payee or any other material at his disposal, inform the payer whether in his opinion the payee is resident or non-resident.

18.12.39

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.

All Appellate Assistant Commissioners of Income-tax.

The Income-tax Adviser to the Board.

R.16/12.

Circular No.62 of 1939.

D.Dis. No. 27(35)- I. T./39.

CENTRAL BOARD OF REVENUE

New Delhi, the 16th December 1939.

CIRCULAR.

Allowances in assessing business income - Depreciation allowance value of assets taken over or purchased - Instructions regarding

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
25 DEC. 1939
Diary No. 13130
File No. DA 31/39

It is not infrequently found that when a person takes over the business of another person or purchases the assets of another person without taking over his business, the successor or the purchaser, as the case may be, pays a lump sum for various kinds of assets taken over or purchased some of which may not be eligible for depreciation (e.g. Goodwill, Land etc.). An assessee wanting to avoid proper tax may manipulate the allocation of the lump-sum payment so as to get an excessive allowance for depreciation. In such a case the lump sum paid must be allocated among the various assets according to their relative commercial value at the time of purchase. The onus of making and proving the correctness of this allocation must lie on the assessee.

It must be particularly noted that in the purchase price of a going concern something may be, and frequently is, included in the price over and above the price paid for physical assets as such. This extra sum represents payment for goodwill and may be calculated by reference to earning capacity. A specific statement to the effect that nothing has been paid for goodwill is not

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conclusive evidence that the price of the assets has not been inflated to include a payment for goodwill.

The worst form of manipulation of the nature mentioned above may be resorted to in the case of a firm converted into a private company. It is frequently the practice in such a case to over-state the value of the assets so as to obtain an inflated depreciation allowance. As the consideration paid is in the form of shares and not cash the figure shown in the transfer agreement may have no relation to the true value of the consideration being given for the assets in question.

Wherever there is any reason to suspect that an unreasonably high price has been fixed on physical assets which are subject to a depreciation allowance, the Income-tax Officer is entitled to question the bona fides of the price and to compare it with the written down value in the books of the predecessor and with the current market value.

R L Taylor

20.12.39.

First Secretary, Central Board of Revenue.

All Commissioners of Income-tax.

All Appellate Assistant Commissioners of Income-tax.

The Income-tax Adviser to the Board.

MH
20/12.

D.A.Dis.No.35(20)-I.T./39.

CENTRAL BOARD OF REVENUE

New Delhi, the 18th December 1939.

From

R. L. Gupta, Esquire, I. C. S.,

First Secretary, Central Board of Revenue,

To

The Commissioner of Income-tax,

Central and United Provinces.

Sir,

Salaries - Non-residents' - Military Officers who came to India on first appointment at the end of 1938-39 - Assessment of..

With reference to your letter No. 837-2/39, dated the 24th November 1939 on the above subject, I am directed to say that your view is correct.

I have the honour to be,
Sir,
Your most obedient servant,

20.12.39.

First Secretary, Central Board of Revenue.

OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE, BANGALORE.
25 DEC. 1939
Diary No. 13131
No. RA 31/39

Copy, with a copy of the letter under reply forwarded to the other Commissioners of Income-tax and the Income-tax Adviser to the Central Board of Revenue.

By order, etc.,

20.12.39.

First Secretary, Central Board of Revenue.

.C.S.
9/12.

Copy of letter No. 837-2/39, dated the 24th November 1939, from the Commissioner of Income-tax, Central and United Provinces, to the Secretary, Central Board of Revenue, New Delhi.

Exemption - Clauses (14), (15), (15-A) and (15-B) of paragraph (a) of the Government of India, Finance Department Notification No. 878-F, dated 21.3.22.

I have the honour to state that the Inspecting Asstt. Commissioner, U.P. has referred to me certain cases of Military officers who came to India on first appointment some time in December 1938 and received till the end of March 1939 salaries exceeding Rs. 2,000/- in the aggregate. Such Officers were clearly non-residents in the account year and the question has arisen whether the provisions of section 17(1) of the Act are applicable to their cases; and, if so, how the tax on their salaries should be calculated. My personal view is that assessments in these cases should be made at the old rates under section 64 of the Finance Act of 1939 on the total salary received by them without taking into consideration their total world income. I would, however, request the Board kindly to give an authoritative ruling on the point.

Circular No. 60 of 1939.

R.Dis.No.58(5)-I.T./39.

CENTRAL BOARD OF REVENUE.

New Delhi, the 16th December 1939.

OFFICE OF THE
HON'BLE RESIDENT
IN MYSORE
LEGAL
Diary 13132
File RA 31/39

CIRCULAR.

Offences — Income-tax — Conscience money - Acceptance of, by Assistant Commissioners - Prohibited.

The Board understands that it is the practice in one province to accept payments as "conscience money" when an omission, from the return, of some item of income, in the past, is brought to their notice. This procedure is quite illegal, besides being open to grave administrative objections. The remittance on account of "conscience money" sent anonymously to the Chancellor of the Exchequer in the United Kingdom is an entirely different matter. Where the offender and the offences are known, officials of the Income-tax Department are not competent to accept "conscience money" on behalf of Government. In such cases, action should be started under the appropriate section, either by way of penalty under section 28 or by way of prosecution under Section 51 and 52 of the Income-tax Act. It is to be noted in this connection that there is no time limit for starting a prosecution. If there is no evidence to support such action, no money should be received. The Board wishes it to be clearly understood that when any payment from an assessee is accepted, it should be made quite clear to him why it is accepted and under what section of the Act.

9.12.39

First Secretary, Central Board of Revenue.

To

All Commissioners of Income-tax.
All Appellate Assistant Commissioners of Income-tax.
The Income-tax Adviser to the Board.

R.19/12.

Circular No. 61 of 1939.

R.Dis.No. 53(5)-I.T./39.
CENTRAL BOARD OF REVENUE

OFFICE OF THE
'BLE THE RESIDENT
MYSORE, BANGALORE.
25 DEC. 1939
iary No. 13133
le No. KA 31/39

New Delhi, the 16th December 1939.

C I R C U L A R

Section 4A(b) - Hindu Undivided Family - Basis of residence.

Under section 4A(b), a Hindu undivided family is resident in British India unless the control and management of its affairs is situated wholly without British India. Having regard to the negative form of expression used in this sub-section the Board is of opinion that a Hindu Undivided family would prima facie be resident in British India if (i) most of its business is done in British India, or (ii) even though most of the business is done or most of the income arises outside British India there is any evidence that the control of family's affairs is being conducted in British India or (iii) the Karta is resident in British India. In any case of considerable doubt, before adopting that interpretation which is advantageous to the assessee, the Income-tax Officer should consult the Inspecting Assistant Commissioner.

19.12.39.

First Secretary, Central Board of Revenue.

All Commissioners of Income-tax.
All Appellate Assistant Commissioners.
The Income-tax Adviser to the Central Board of Revenue.

K.C.S.
19/12

Sm. 155

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THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,
Bangalore, the 6th January 1940.

Issued. 6/1/40 Issue 6/1

R.Dis.No. F.31(Coll.II)-39 Judl.

A copy of the undermentioned papers is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and guidance.

By order, etc.,

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

- - -

P.U.C. 1 / × P.U.C. 4 / P.U.C.s 2, 3, 5 & 6

1. Endorsement from the Central Board of Revenue, D.Dis.No. 27(20)-I.T./39 dated the 9th December 1939, with enclosure.

2. Endorsement from the Central Board of Revenue D.A.Dis.No. 35(20)-I.T./39 dated the 18th December 1939, with enclosures.

3. Circulars from the Central Board of Revenue

No.59 of 1939 dated the 14th December 1939,
No.60 of 1939 dated the 16th December 1939,
No.61 of 1939 dated the 16th December 1939,
No.62 of 1939 dated the 16th December 1939.

(With 3 spare copies of each of No.3.)

4.1.40

AsRa.
4.1.40

FA 4 9R 3/1 Box 169 1260

R.Dis.No.4(30)-I.T./39.

CENTRAL BOARD OF REVENUE.

New Delhi, the 23rd December 1939.

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NOW

From

R.L. Gupta, Esquire, I.C.S.,
First Secretary, Central Board of Revenue.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
Diary No. 179
File No.

To

The Agent and General Manager,
The Bengal and North Western Railway Company, Limited,
GORAKHPUR.

Sir,

With reference to your letter No.7455 dated the 20th/21st September 1939, I am directed to say that the points raised by you are answered below:-

(i) Section 39. The Income-tax Officer cannot under section 39 of the Act call upon the Company to furnish a list of members, debenture-holders or mortgagees. The Commissioner of Income-tax, Central & United Provinces, is being asked to investigate the circumstances under which your Company was required to supply such a list and he will send a further communication to you in due course.

In view of the above, the questions at (a) and (b) under sub-paragraph (i) of your letter do not arise.

(ii) Section 19A. (a) The Board has decided that the rate of exchange for the purpose of conversion of dividends paid in sterling should be the standard rate of exchange i.e. 1 s. 6 d. per rupee.

(b) It is necessary to show both the gross and the net amounts of dividends vide form of return prescribed under rule 43 of the Indian Income-tax

Rules, 1922. In arriving at the gross amount of dividend both (1) the Indian Income-tax applicable to such proportion of the dividend as the amount of the profits and gains of the company liable to Indian income-tax bears to the total profits and gains of the company and (2) the United Kingdom tax, should be added to the net amount of dividend paid to the shareholder as shown below:

Suppose the actual gross dividend is: Rs.1,000

and Indian income-tax is Rs.156 (a)

and United Kingdom income-tax is Rs.375 (b)

Rs. 531

The net dividend paid to the shareholder will then be ... ... Rs.469. (c)

To this net dividend both the above taxes should be added to arrive at the correct gross dividend of Rs. 1,000/-. If any difficulty is experienced in working out the exact gross dividend in a case where a part only of the income of the company has suffered Indian income-tax, the Company may, before submitting the return under section 19A, give the particulars about the figures (b) and (c) relating to any one single item of dividend and request the Income-tax Officer concerned to help it in arriving at the figure (a). The method of computation will be the same for all such items of dividend.

Put up (H)

In this connection I am to invite a reference to the amendments to rules 42 and 43 of the Income-tax Rules published with Board's Notification No.85-Income-tax dated the 25th November 1939 (published in the Gazette of India of the same date). The limit of Rs. 5000 referred to by you does not apply to shareholders which are companies and in their case any dividend paid has to be included in the return.

(iii) Deduction of supertax under section 18(3D)

(a) and (c) The provisions of sub-sections (3D) and (3E) of section 18 of the Act will not apply as on the facts stated by you it appears that the dividends are not paid in or from British India.

(b) The term 'shareholder' includes a company, trustees, etc., and is not limited to holdings in the name of one person.

I have the honour to be,

Sir,

Your most obedient servant,

R.L. Gupta.

First Secretary, Central Board of Revenue.

Copy with a copy of the letter under reply forwarded to:

The Commissioner of Income-tax, Central & United Provinces. With reference to sub-paragraph (i) above, attention is invited to paragraph 89(iv) of the Income-tax Manual (7th Edition).

The other Commissioners of Income-tax.

The Income-tax Adviser to the Central Board of Revenue.

By order, etc.,

29.12.39,

First Secretary, Central Board of Revenue.

IB.1
29.12.39.

Copy of letter No. 7455, dated the 20th September, 1939, from the Agent and General Manager, The Bengal and North Western Railway Company, Limited, Gorakhpur to the Secretary, Central Board of Revenue.

I have the honour to request the favour of your kindly obtaining a ruling from the Central Board of Revenue on the undernoted questions, which have arisen in connection with the application of the Amended Income Tax Act and furnish this office with a copy thereof for the guidance of the Board of Directors of this Railway Company in London.

(i) Section 39. - Under this Section of the Act the Income Tax Officer has asked for the supply to him of a list of members, debenture holders or mortgagees of the Company as on 31st March 1939 and the question for decision is whether he is entitled to call upon the Company to furnish such a list under this Section of the Act, which only authorises an Income Tax Officer to inspect and, if necessary, take copies or cause copies to be taken of the register of members, etc. If the reply is in the affirmative, then the Board's ruling may also be obtained on the following further points:-

(a) This Company has no permanent record of who were shareholders on 31st March 1939 as dividends have been paid on all stock since then and the registers have therefore been reconstructed. What should be done in these circumstances ? Would it be sufficient if a copy of the Company's annual return were submitted next time it is made up in February. This gives Name, Address and amount of holding in sterling but does not include Debenture Holders.

(b) Is it necessary to submit this return at all since the return under Section 19A will duplicate the information except for smaller shareholders.

(ii) Return under Section 19A. - It is understood that the form in which this return is required to be submitted is the same as prescribed under Section 19A of the 1922 Act and shown on page 126 of the Income Tax Manual and that it applies to dividends or aggregate dividends exceeding Rs. 5,000/- per annum. The Income Tax Officer wants the information to be furnished in Rupees and has stated that the rate of exchange should be the rate obtaining on the closing day of the accounts of the Company. The Company's accounting year closes on the 30th September each year and it is doubtful if it will be correct to apply the rate of exchange obtaining on that date to the statement for the year ending 31st March of the succeeding year. Will it not be sufficient if the standard rate of exchange, viz. 1 s - 6 d to the rupee is adopted for the purpose of converting from sterling into Rupees of the amount of the Company's stock held and the dividends paid in sterling. Another point for consideration is whether it is absolutely necessary to show in the return both the gross and the net amount of dividends or whether it would be sufficient to show the gross dividends declared and indicate the rate of U.K. tax deducted on payment.

(iii) Deduction of Super-tax under Section 18(3)(d)- In this connection the following points require elucidation:-

(a) Whether relevant provisions of the Act apply in the case of this company which is a Company incorporated in England, has its head office in London and pays dividends in Sterling.

(b) Does "shareholder" include :-

(i) company.

(ii) Holdings which stand in more than one name. The nominal holders are frequently trustees and the trust may be for several beneficiaries no one of whom receives Rs. 25;000/- or

(iii) Is the term limited to holdings in the name of <u>one person</u>?

(c) In the absence of an order from the Income Tax Officer fixing a particular rate of Super tax to be deducted from the dividends paid to particular shareholders, super-tax is to be deducted as per Section 18(3E). Will it be in order if the Company deduct Super-tax at the rate applicable on the basis of the amounts actually paid by the Company (together with the amount of any income-tax payable by the Company in respect thereof) irrespective of whether a shareholder may or may not have other income.

2. This reference is being made direct in view of the urgency and the importance of the matter and while anxious to give every assistance possible to implement the new Act the Company desires to ask for co-operation in avoiding unnecessary labour in compiling returns which either overlap or give no useful information.

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ISM
29.12.

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FA'Y

D.A.DIS.No.21(12)-I.T./39.

CENTRAL BOARD OF REVENUE.

New Delhi, the 22nd December 1939.

.....

From

R.L. Gupta, Esquire, I.C.S.,
First Secretary, Central Board of Revenue.

To

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
Diary No. 180
File No. Sir.

Pritamdas H. Gidwaney, Esquire,
Income-tax Expert,
Main Bazar,
Hyderabad, Sind.

Income-tax Practitioners - Accountancy examinations recognised - Rule 45 - Examinations conducted by the Association of Certified and Corporate Accountants, London.

.....

In reply to your letter dated the 30th September 1939 on the above subject, I am directed to say that only persons who have passed the Final Examination conducted by the Association of Certified and Corporate Accountants, London, will be eligible to practice as income-tax practitioners.

I have the honour to be,
Sir,
Your most obedient servant,

R.L. Gupta.

First Secretary, Central Board of Revenue.

Copy forwarded to:
All Commissioners of Income-tax.
All Appellate Assistant Commissioners.
The Income-tax Adviser.

By order, etc.,

29-12-39.
First Secretary, Central Board of Revenue.

D.Dis.No.27(9)-I.T./39.

CENTRAL BOARD OF REVENUE

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
9 JAN. 1940
Diary No. 403
File No. R.O. 31/35

New Delhi, the 3rd January 1940.

From

R. L. Gupta, Esquire, I.C.S.,
First Secretary, Central Board of Revenue,

To

The Commissioner of Income-tax,
Assam.

Sir

Depreciation - Talkie machines for exhibition of films.

With reference to the correspondence ending with your letter No. 17/A-1-Syl dated the 17th October 1939, I am directed to say that in respect of assessment years upto and including 1938-39 the following rates of depreciation should be allowed :-

15% on Batteries

7½% on the rest of the machinery.

2. Unless there is any application for a special rate for 1939-40 the above rates should be applied this year as well.

3. For 1940-41 and subsequent years specific provision will be made for this machinery.

I have the honour to be,
Sir,
Your most obedient servant,

R. L. Gupta,

First Secretary, Central Board of Revenue.

Copy ...

[265

Copy of letter No. 17/A-1-Syl of 1939-40, dated the 17th October 1939, from the Commissioner of Income-tax, Assam, to the Income-tax Adviser to the Central Board of Revenue, New Delhi.

Depreciation - Talkie Machines for exhibition of films - Your letter C.No. 27(19)-I.T./39, dated the 31st August 1939.

In continuation of this office letter No. 14/A-1-Syl/39-40 dated the 11th October 1939 I have the honour to inform you that the Machine in question was taken from Messrs. Phillips Electrical Co. Ltd., Calcutta by the company on hire purchase system and after payment of all the instalments it has become the property of the company.

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270)

Copy of letter No. 6/R-7-Syl/1938-39, dated the the 31st March'1939, from the Commissioner of Income-tax, Assam, to the Secretary, Central Board of Revenue, New Delhi.

Depreciation - Talkie machines for exhibition of films.

I have the honour to request you to kindly advise as to whether the rates of depreciation i.e. 15% in respect of machineries used for production of cinematograph films as provided for in Rule 8(3)(h) of the Income-tax Manual are also applicable in cases of machineries used in cinema houses for exhibition of cinema films.

Ser 162

(271)

D.O. D.Dis.No.56(11)-I.T./39.

CENTRAL BOARD OF REVENUE.

New Delhi, the 4th January 1940.

My dear **Turner/Clarke/Mullan/Menon/Shearer/Wall/Merchant/Sarma,**

Indian Income-tax Act, 1922 - Section 17(1) - Non-resident British subjects - Total world income - Deduction of foreign losses.

A point has arisen in Calcutta as to whether foreign losses should be deducted in arriving at the total world income for the purposes of section 17(1) of the Act. In regard to 'total income' deduction of losses is expressly provided for in the definition in section 2(15) read with sections 6 and 24(1) but in the case of 'total world income' no specific method of computation is prescribed in the Act and the definition in section 2(15) merely says that it includes all income, profits or gains wherever accruing or arising, except income to which, under section 4(3), the Act does not apply. - The Board is advised that in the absence of any particular prescription regarding the method of computation, the total world income must be computed in the ordinary way, i.e. by adding up the income from all sources wherever accruing or arising and deducting from the total all losses wherever sustained.

2.....

2. I doubt if this interpretation will do us much damage especially as the definition of 'British subject' in section 27 of the British Nationality and Status of Aliens Act, 1914 has reference to a natural person only so that a company, Hindu undivided family, firm or association cannot claim to be a British subject. No amendment of the Act, therefore appears to be necessary at this stage but you should be on the look-out for cases of hardship and cases where foreign losses of non-residents cost us considerable amounts of revenue owing to being included in the total world income. In Bombay City and Calcutta a record should be kept of all cases in which foreign losses are deducted in determining total world income. The matter would then be reviewed in June 1940 when practically all the 1939-40 assessment work has been completed and for this purpose a report should be furnished by the end of May 1940.

Yours sincerely,

J.F. Sheehy,
5. 1. '40.

To

All Commissioners of Income-tax,
(Major Provinces).

Copy forwarded to the Commissioners of Income-tax, Minor Provinces and Income-tax Adviser to Board.

By order, etc.,

First Secretary, Central Board of Revenue.

OFFICE OF THE
HON'BLE THE RESIDENT
IN MYSORE, BANGALORE.
9 JAN. 1940
Diary No. 404
File No.

RQ 31/85

S.N. 162

12

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,

Bangalore, the 23rd January 1940.

Issue 17/1

No. R.F.31(Coll.II)-39 Judl. Enc. 4.

Issued 23/1/40

A copy of the undermentioned papers is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and guidance.

By order, etc.,

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

- - -

S.N.159 1. Endorsement from the Central Board of Revenue, R.Dis.No. 4(30)-I.T./39 dated the 23rd December 1939, with enclosures.

S.N.160 2. Endorsement from the Central Board of Revenue, D.A.Dis. No.21(12)-I.T./39 dated the 22nd December 1939, with enclosure.

S.N.161 3. Endorsement from the Central Board of Revenue, D.Dis. No.27(9)-I.T./39 dated the 3rd January 1940, with enclosures.

S.N.162 4. Endorsement from the Central Board of Revenue, D.O. D.Dis. No.56(11)-I.T./39 dated the 4th January 1940, with enclosure.

15-1-40

18.1.40

D.Dis. No.7(4) -I.T/39 S.N 164 [27

Government of India.

Finance Department (Central Revenues)

New Delhi, the 11the December 1939

From
R.L.Gupta, Esquire, I.C.S.,
Deputy Secretary to the Government of India

To
All Commissioners of Income-tax.

Sir,

Compensatory allowances-
Central services, Class I,
Railway Services, Class I
and Secretary of State's Officers
serving under Government of India -
Payment of arrears - relief under
Section 60(2)

I am directed to say that under Finance Department Resolution No.F.2-XXVI/Ex.II/36, dated the 8th April 1937, the grant of compensatory allowances to officers at Bombay and Calcutta was discontinued. The Secretary of State for India has now ruled that this decision was ultra vires in its application to officers of Central Services, Class I and Railway Services, Class I who were appointed by the Secretary of State in Council and accordingly it has been decided to restore the allowance to such officers and also to Secretary of State's officers serving under the Government of India to whom section 258(3) of the Government of India Act, 1935 does not apply, as were actually in receipt of it before its withdrawal, with effect from the date on which it was withdrawn from them. The officers concerned will therefore draw the arrears of compensatory allowance in 1939-40 and be entitled to relief under section 60(2) of the Income-tax Act.

2. The Central Government has decided that in those cases the amount of compensatory allowance drawn in arrears in 1939-40 should be assessed at the rates that would have been leviable had the arrears been drawn in the years in respect of which they are being paid and relief should be granted in the following manner:

(i) Arrears of allowance pertaining to the year 1937-38: The Disbursing Officer will ascertain from the Income-tax Officer the extra tax that would be leviable had the allowance been

[27

drawn in 1937-38 and deduct that amount at source.

(ii) Arrears of allowance pertaining to the year 1938-39: The Disbursing Officer will deduct tax at source at the rate applicable to the total emoluments for 1938-39 inclusive of the arrears

In both these cases if the arrears of allowance have been drawn before the receipt of these orders, necessary adjustment, if any, should be made in the subsequent pay bills.

3. All cases in which relief has been granted under the foregoing paragraph should be promptly reported by the Disbursing Officer to the the Income-tax Officer concerned in order that he may take into account the relief granted in assessing the income of 1939-40

I have the honour to be,
Sir,
Your most obedient servant,

Dy. Secretary to the Govt. of India

with 20 spare copies } Copy forwarded to the Raiway Department and all departments of Government of India, with the request that the disbursing officers may be instructed accordingly.

By order etc

Dy. Secretary to the Govt, of India

of issue of these orders the procedure for granting relief laid down in the foregoing paragraph will apply. In regard to gratuities paid after the date of these orders, the disbursing officer will determine the average rate for the preceding three years in consultation with the Income-tax Officer concerned and deduct tax at source on the amount of the gratuity at that rate. In every case where a disbursing officer deducts tax at source in accordance with these orders, he should report the fact to the Income-tax Officer concerned as early as possible so as to enable him to make the assessment accordingly.

4. A copy of this letter is being endorsed to the Railway Department for communication to the Railway authorities concerned.

5. In the case of employees of companies (other than Railway companies) and firms etc. relief in respect of the gratuity paid to them will be granted on the merits of each case. These cases should be reported to the Central Board of Revenue.

I have the honour to be,

Sir,

Your most obedient servant,

21-12-39

Deputy Secretary to the Government of India.

Copy with a copy of Board's letter R.Dis.No.26(18)-I.T./39, dated the 6th July 1939, forwarded to the Railway Department.

Copy also forwarded to all Appellate Assistant Commissioners of Income-tax and the Income-tax Adviser to the Board.

THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE,
Bangalore, the 16th January 1940.

R.Dis.No. F.31(Coll.II)-39 Judl.

A copy of the undermentioned paper is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and guidance.

By order, etc.,

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

I Letter from the Government of India in the Finance Department (Central Revenues), D.Dis.No.7(4)-I.T/39 dated the 11th December 1939.

S N 167

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THE OFFICE OF THE HON'BLE THE RESIDENT IN MYSORE
Bangalore,
Dated the 16th January 1940.

Issued 16/1/40

R.Dis.No. F.31(Coll.II)-39 & 2
Judl.

A copy of the undermentioned paper is forwarded to the Inspecting Assistant Commissioner of Income-tax, Civil and Military Station, Bangalore, for information and guidance, in continuation of endorsement from this Residency R.Dis.No.F.31-39/Judl., dated the 26th July 1939.

*With the Gazette of India dated the 21st October 1939. (Return requested,)

S N 116
R D 31-39 (D)

By order, etc,

for SECRETARY TO THE RESIDENT &
COMMISSIONER OF INCOME-TAX.

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P & C II

Letter from the Government of India in the Finance Department (Central Revenues) D.Dis.No.7(3)-I.T./39 dated the 19th ~~October~~ Dec. 1939.